2873

ONTARIO

PROCEEDINGS OF

Select Committee
Labor Relations Act

Held at Parliament Bldgs
Toronto, Ontario

23, 24, 25

VOLUME No. ~~24, 25 & 26~~

DECEMBER 3, 4 & 5 1957

OFFICIAL REPORTERS

ANGUS, STONEHOUSE & CO. LTD.
371 BAY ST., SUITE 411,
TORONTO, ONTARIO

LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1, Parliament Buildings,
Queen's Park, Toronto, Ontario

Tuesday,
December 3, 1957

JAMES A. MALONEY	Chairman
HAROLD PERKINS	Secretary
GEORGE T. WALSH, Q.C.	Committee Counsel
MEMBERS	G.W. Jackson
	Donald C. MacDonald
	Ellis P. Morningstar
	Raymond M. Myers
	Arthur J. Reaume
	M. Leslie Rowntree
	J.W. Spooner
	Albert Wren
	John Yaremko
	Robert Macaulay

APPEARANCES:

Mr. J.B. Metzler — Deputy Minister of Labour

CANADIAN DIETETIC ASSOCIATION

Miss Margaret E. Perney, Q.C. — Counsel for the Association

Miss Dorothy Tyers
Miss Lois Hurst
Miss Florence Silverlock

INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRFRACT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW-CLC)

Mr. George Burt — Canadian President
Mr. Paul Siren
Mr. John Eldon

Mr. Raymond M. Myers -- Acting Chairman.

MR. YAREMKO: Gentlemen of the Committee, I move we start. I would also move that Mr. Ray Myers act as Chairman until the arrival of the Chairman.

---(Mr. Raymond M. Myers occupies the Chair.)

THE CHAIRMAN: We have the brief from the Ontario Dietetic Association. It might be better to start on that first. Will someone present the brief?

MISS PERNEY: Yes, Mr. Chairman. I would like to introduce the members of the delegation. I am Margaret Perney, the solicitor for the Ontario Dietetic Association. This is Miss Tyers, who is in charge of the cafeterias for the Board of Education. Miss Hurst, who is one of the dieticians at the Hospital for Sick Children, and Miss Silverlock, who is head dietician at the Western Hospital. On their behalf I would like to present this brief, with the request that this Association be exempt from the provisions of the Labour Relations Act, and I would ask for your consideration, bringing to your attention the qualifications that are required for membership in this Ontario Dietetic Association. They are on the first page of the brief.

THE CHAIRMAN: What we have been doing, the people presenting the briefs have been reading them.

MISS PERNEY: Would you like me to read it, sir?

THE CHAIRMAN: Yes, and then we can go over it page by page.

MISS PERNEY: I would be very happy to read it.

---(The brief is read in its entirety.)

THE CHAIRMAN: Now, have the Committee members any questions?

MR. MacDONALD: Yes, Mr. Chairman. There are two or three questions I would like to ask. Are there any local branches of your Association or is it all sort of individual membership?

MISS PERNEY: There is just one Organization, the Ontario Dietetic Association, and in the Board of Directors there are representatives from different cities or districts on the Board. There is a representative from Sudbury, from London, from Peterborough, from Ottawa, and from Hamilton on the present Board, and as the Dietetic Profession expands then they would want to take in dieticians from other parts of Ontario. It is all inclusive membership, and there are members from all of the province.

MR. MacDONALD: Is membership compulsory in any sense in the Association?

MISS PERNEY: No, it is voluntary. It is voluntary, Mr. MacDonald, because the members of the Association feel that they have a very strong link with their own people, and it gives them strength and unity because, as I mentioned and as was mentioned in the brief, they are affiliated and have membership with the Canadian Dietetic Association which is an Association covering the whole of the Dominion.

MR. MacDONALD: The Nurses and Physiotherapists' Organization -- roughly comparable organization as far as Labour Relations Act -- they were kind enough to give us information as to general salary range, and we discovered the average wage of nurses at that point was about $2,100.

MISS PERNEY: Miss Hurst has a summary here. Maybe she could give it to you.

MR. MacDONALD: I was curious to know what the case was.

MISS PERNEY: They have divided it into categories.

MISS HURST: Chief Dietician, Director of Dietetics with certain qualifications, the salary is $6,000 and upwards, depending on certain numerical factors. The category A2, $5,000 and upwards, depending on certain numerical factors. Grade B, $4,000, increasing to $5,000. Grade C, $3,200, increasing to $4,000.

MR. MacDONALD: The minimum is $3,200?

MISS HURST: Yes.

MR. MacDONALD: Is this a suggested schedule?

MISS HURST: Yes, this is the suggested schedule.

MR. MacDONALD: What in actual fact would the average be?

MISS HURST: Well, I am sorry. I do not have that information. There was a survey completed across Canada recently, but I could not tell you the exact information.

MISS PERNEY: Could you give any idea of it?

MR. JACKSON: Are most of the members of your Association employed in hospitals?

MISS PERNEY: They are employed in hospitals. I can give you a rundown. They are employed in hospitals and in teaching, because we have Mrs. Dobson at Ryerson, and Dr. Margaret Macreadie at Ontario Agricultural College. Dr. MacPharlane as head of dietetics in the University -- a dietician of good reputation. I mean her standing in the community is very high. They have Wing Commander Clark who is in charge of the feeding in the Air Force. She succeeded Wing Commander Kathleen Jeffs, who was very outstanding during the war. And there are dieticians in industry. There is a dietician in charge of almost every feeding unit in Eaton's. There are dieticians in charge in Honey Dew, and it is very extensive. They have extensive lives and employment.

MR. JACKSON: Let me put that question another way. Of that 400 members, how many are employed in hospitals?

MISS PERNEY: I would say more than 50 percent.

MR. JACKSON: And when they are in a hospital, under whom do they serve?

MISS SILVERLOCK: We are directly responsible to the superintendent of the hospital.

MR. MORNINGSTAR: Are they exempt now from the Labour Relations Act?

MISS PERNEY: No. That is what the application is about, sir, they are not exempt.

MR. YAREMKO: Are there any members of the Association who are now included within a bargaining unit? Within the province?

MISS HURST: I think possibly two that I know of.

MR. YAREMKO: Where would they be, in a hospital?

MISS HURST: One is in a hospital and one is in the Department of Health at Toronto.

MR. YAREMKO: Would the problem be this: It is a matter of considering that they have certain professional standing and should not be included with others in the bargaining unit rather than the idea of taking themselves out completely from under the Act?

MISS PERNEY: Mr. Yaremko, the idea is to take them right outside the Act, because of the position they hold in their employment. They are as heads of their particular departments. Now, take for instance the head dietician at the Round Room at Eaton's. She has charge of that department and those of the staff are directly under her, and to have her maybe associated as a member would maybe take a bit of her effectiveness away in her work.

MR. JACKSON: If it were done the way you want it done the Ontario Dietetic Association would be excluded, and then it would be up to the individual dieticians whether or not they wanted to belong to the Association?

MISS PERNEY: That is right.

MR. MacDONALD: I do not think that would be possible.

THE CHAIRMAN: No.

MR. MacDONALD: I do not think I have your answer, but I think it is rather an important one. So in order to abide by what in effect you are now demanding -- exclusion from the Act -- does that mean a person would have to withdraw from your Association if they permitted themselves, or if against their will they became involved in a collective bargaining unit?

MISS PERNEY: Well, the matter is that that would be their decision.

MR. MacDONALD: In other words, they could still be a member of the Association and be a member of the collective bargaining unit?

MISS PERNEY: As long as the membership as a whole had the protection that they are asking.

THE CHAIRMAN: If this were done, Section 1 (3) would be extended to say:

> "For purposes of this Act no
> "person shall be deemed to be
> "an employee who is a member of
> "the Dietetic Association".

MR. MacDONALD: The reason why I am pursuing this question, Miss Perney, you have the suggestion if a person was a member of the collective bargaining unit, then the answer should be that they withdraw from membership of

the Ontario Dietetic Association. Now, I think this is something that your Association would have to give some serious thought to because in effect this is a pretty compelling kind of proposition. You either obey the order or you get out.

MISS PERNEY: The point is that this is one member out of 400 other members. The majority of the membership have authorized this brief to be submitted. In fact they had requested that we submit this proposition to this
2 Committee, -- it is just this situation that one member might have certain desires, and she may not be as strongly linked with the Labour Organization at the City Hall as we may think. If she as a dietician were exempt under the Act, then she would not have to become a member of the Organization at the City Hall. She would therefore be in a position as a dietician there, apart from the Labour Union. I mean, the Labour Union is not what her job is. Her job is dietician there, and if she is exempt from the provisions of the Act and she continues as part of the staff at the City Hall, she does not have to, by reason of the Act, be a member of the union. She is not losing or gaining anything.

She may, under the present circumstances, when it is essential that these employees should have professional status, become part of the Labour Organization. She might have to do that, but if she were exempt from it, then she could stand in a professional position as dietician in City Hall and have the same status say as the doctors there and the lawyers in the Legal Department. They are exempt, and they are part of the staff of City Hall, and under the Act

they do not have to be a member of the Labour Union. That is what she would be, and she would not lose anything by reason of it, but because of the situation at City Hall, and the one woman who was there, she has to conform or she has to have the protection of the Act to exempt her from it.

MR. YAREMKO: Perhaps we could ask our counsel in order that this Committee be clear in their own minds, if a person is not deemed to be an employee under the Act and that person voluntarily be a member of the union -- it is clear the Labour Relations Board wouldn't count them as well as the employees either in application for certification or otherwise.

MR. WALSH: If it excludes under definition (3). This dietician is the same as architectural, dental, engineering, legal or medical profession. She would be excluded.

MR. YAREMKO: I know the Board, the Labour Relations Board, would not count them as an employee because of the exemption for purposes of determining whether a bargaining unit has a majority, or things of that nature, but that would prevent a lawyer or dentist from actually voluntarily belonging?

MR. WALSH: No. If he wants to join, he can do it.

MR. MacDONALD: I do not know the person involved at all, but supposing the dietician in the City of Toronto grew up in a trade union family and had sentimental attachment to the trade union and wanted to be a member of

the trade union, does the acceptance of your proposal here say in effect "You cannot be a member of a trade union and at the same time a member of the Ontario Dietetic Association"?

MISS PERNEY: Mr. Chairman, and Mr. MacDonald, I understand one of the doctors at the City Hall has labour affiliations in the union that this lady is attached, and it is just a voluntary matter, and I do not think the medical profession are concerned with the fact that he has such a standing.

THE CHAIRMAN: Labour unions represent only employees, and if dieticians are not employees, then the unions cannot represent them.

MR. JACKSON: He is not represented as a lawyer, or whatever he happens to be.

MR. MacDONALD: Our future problem here is that undoubtedly there are some dieticians who are in Management level, but there may be other groups in which you have an assistant to the assistant to the assistant, and when you get down the line, they are not Management, they are employees pure, plain and simple.

MISS SILVERLOCK: No. In each case actually they are responsible for a certain number of people. They are supervising the unit with a certain number of people, and in every case they are at a supervisory level.

THE CHAIRMAN: How are they graded? How does one get from one classification to another?

MISS HURST: This has been set up for dieticians

at the lowest level. Assistant dietician, junior grade. She is responsible to a senior grade dietician, and her responsibilities include a certain amount of administration, personnel and training programme, unit production, maintenance of financial policy, interdepartmental relationship, and public relations.

The next grade up, senior grade assistant dietician, she is responsible for supervision of departments, including organization and administration, personnel and training programme, department production, adminstration and financial policy, interdepartmental relationship and public relations.

THE CHAIRMAN: Supposing I were to employ a dietician and she was in the lowest grade although she should have been in the highest grade. What recourse would she have? Supposing my operation was large enough to warrant the employment of $6,000 a year dietician, but supposing I would prefer just to keep her in the $3,000 class. How would she ever get higher?

MISS PERNEY: The idea would be that these women have the qualifications that I have read to you, and it is a matter of their own ability which would bring them to the fore.

THE CHAIRMAN: Supply and demand?

MISS PERNEY: Supply and demand, and the demand is greater than the supply.

MR. MacDONALD: There is one other question.

What percentage of your membership would be below the suggested salary schedule which has a minimum of $3,200?

MISS PERNEY: Could we furnish that to you? They have a survey, and I apologize that we have not got that information, but we could let your Committee have that.

MR. MacDONALD: I think it would be useful if you could.

MISS PERNEY: We would be glad to let you have the actual salary -- that is the one that is hoped for -- we would be glad to let you have the figures of the salary of the different dieticians and the range of what they make. We will furnish it to the Committee before you furnish your deliberations.

MR. MacDONALD: The reason for my question is that there is a very abnormal situation growing up, and that is a number of groups are claiming professional status, and I am not arguing the merits of their claim at the moment, but in many instances the salary ranges are absolutely atrocious. The official figures give a salary range for nurses averaging $2,100, and the physiotherapists have a range of $2,100 up to $4,500 as a maximum, with many of them below the minimum of $2,100.

MISS PERNEY: Mr. Chairman, we will be very glad to make an actual survey and let you have a figure setting out what the actual range of salary is.

MR. YAREMKO: You stated the majority of your membership requested this brief be presented.

MISS PERNEY: Yes.

MR. YAREMKO: Did you have a poll?

MISS PERNEY: We have been going through quite an interesting time. We have become incorporated as to Ontario Dietetic Association, and we are now applying for a private Bill to give us a status of Registered Professional Dieticians. So we have been in touch with the members over the last year on many, many matters, and this was one -- this matter of exemption from this Act -- has been one that has been brought to their attention.

MR. YAREMKO: Was it circularized?

MISS PERNEY: We have circularized on all these matters.

MR. YAREMKO: Including this one?

MISS PERNEY: Including this one.

MR. YAREMKO: So that each member of your Association would be aware of the fact that you were presenting this brief?

MISS PERNEY: Yes, they are aware that we are trying to have this matter dealt with.

MR. YAREMKO: After the circularization of this matter did you have any ofyour members of your Association notify you that they did not wish to be presented?

MISS PERNEY: There has been nothing adverse to this. It may be that of the three items which we have been working on -- they might have lost sight of the one and might have seen the other, but the general work of this

Association over the last two years has been a matter of professional status. We have been working to that end. This is just part of the general scheme, and now we have started the ball rolling for a private Act which will give the Ontario Dietetic Association and members the status of Registered Professional Dieticians. I just got from Mr. Auchenbrach the draft of the Bill which he has gone over, and which he has suggested that we check over. The whole scheme is that the dieticians have been working for a professional status, and this is just one matter which has come before it.

MR. WALSH: Has this ever been put to a vote of the members?

MISS PERNEY: Not a vote, no, Mr. Walsh. No, it has just been circularized, and they have been advised. If the Committee would like a poll, we would certainly be glad to have a specific poll on this subject, but by their acquiescence that we have been working on the other matters we took it we had authority.

THE CHAIRMAN: Any other questions? The Committee is very grateful to you for presenting your brief and we will take into consideration everything you have said when we make our report.

MISS PERNEY: May I ask the Committee's consideration of a section in one of the American Labour Management Acts?

THE CHAIRMAN: Yes.

MISS PERNEY: It fits into this problem very well. Could I read it to you?

"The trained professional employee
"means only employee engaged in the
"work (1) predominantly intellectual
"and varied in character as opposed
"to routine mental, manual, mechanical,
"or physical work; (2) involving the
"consistent exercise of discretion
"and judgment in its performance;
"(3) of such a character that the out-
"put produced or the result accomplished
"cannot be standardized in relation to
"a given period of time; (4) require
"knowledge of an advanced type in the
"field of science or learning custom-
"arily required by prolonged course
"of specialized instruction and study
"in an institution of higher learning
"or hospital as distinct from general
"academic education or from apprentice-
"ship or training in the performance
"of routine, mental, manual or physical
"processes."

That is the Labour-Management Relations Act, 1947, as amended in 1951. Mr. Perkins was good enough to give me this and I thought it was very, very apropos of what

this group do. Thank you so much, sir.

THE CHAIRMAN: Thank you.

MR. PERKINS: We have with us this morning the United Auto Workers here on a second visit. They did not get through with their brief last day. Represented by Mr. Burt, Mr. Siren and Mr. Eldon. If you will kindly take your seats here. I believe we were on page 12. I do not know whether we got through with Section 11.

MR. SIREN: I believe so. I think we started Section 12.

THE CHAIRMAN: Any question on Section 11, page 12? Section 12, page 13? Section 14 (2)? Section 14 (3)? It is so long since we have seen this, if you have any comments to make as we go along in addition to those you have already made, it will be perfectly in order for you to comment too.

MR. MacDONALD: At the top of page 13, because of the size of your unions, you are willing to accept the proposition that the bargaining union will include some employees from it. We have had representation from other unions -- for example a small printing trade -- where there might be only two or three in the bargaining unit, while you may be closer yourself in the position where you may be discriminated against, have they asked that it be the privilege of the bargaining unit to designate anybody. Presumably if it can be done for the large units, it can be done for the small units.

MR. BURT: I do not just follow you.

MR. MacDONALD: As I understand your comment at the top of page 12, your bargaining unit must be composed of workers in the plant, and I am drawing attention to the fact that in some small locals there would only be two or three or four workers. Experience has proven to put one of those persons on the bargaining unit leaves the employee in the position of being discriminated against by the employers.

MR.BURT: We are not proposing that it be restricted to people from a bargaining unit. We agree they should be represented. Our Constitution requires that, but in a small unit, representation from the local union in the printing trade union could be accompanied by an international representative.

We have no objection to that. Our objection is based on the remote control association as conducted in so many places where we quite often meet people who are without responsibility and do not truly represent the company, do not have a knowledge of the production processes because they do not work in the company. We think that inasmuch as the Act requires that people from the plant be on the bargaining Committee, that also on the management side they should have representatives likewise from the plant on their side. That is the whole purpose of this proposal.

MR. MacDONALD: Have you ever run into an experience of a memorandum of agreement being signed by management, by the representative of management, and then not endorsed by the powers that be behind it?

MR. BURT: Yes, we have. We have on occasion had our agreements knocked down after they had been scrutinized by people in the United States, or people in Canada in Management positions. Completely knocked down after we had exposed our own bargaining position in order to come to an agreement.

Now, as far as the union is concerned that is not done because our international representative and the director -- which is myself -- in our union we scrutinize our agreements with the international representative who is present in negotiations at all times, when he gives his word that negotiations are completed, that is the actual international union.

THE CHAIRMAN: He does not need confirmation?

MR. BURT: No, not from Detroit or anyplace else, but in the case of Management that is not entirely true, and we have been knocked down at times by remote control.

MR. MacDONALD: I know the Secretary of the Committee has documents relating to a strike that has been going on quite some time ---

MR. BURT: Up in Midland?

MR. MacDONALD: No, this is another case up in Fort Frances, and the problem there is where settlement was reached in a retail store. After the intervention of a conciliation officer, a memorandum of agreement was signed by the Management of the store, then the top people

in the company refused to back it up so that there was just nothing happened on the agreement. This has gone on for four or five months, and those workers went out on strike. I was quite curious to know whether that is a very frequent occurrence. How frequent is this occurrence? After getting a memorandum of agreement then it is not supported by the people behind the Management representative?

MR. BURT: I think it is the exception; not the rule. But there have been instances where that has occurred.

MR. WREN: Do you not protect yourself in any way by insisting that whoever signs for the company is a bona fide signer?

MR. BURT: You can insist all you like, but we have no power to pick the company's representatives. Then when you finally arrive at an understanding, and you have that understanding with the Management sitting opposite to you, not infrequently the Management will suggest to you they have to take it before the Board of Directors. That is true in Canadian plants, anywhere. They do take it to the Board of Directors. However, secondary management have on occasion agreed with us. We have been knocked down. We insist that the person knocking down sitting in on the negotiations, and they have refused to sit in on negotiations. We don't see the top people in the automobile industry in every occasion.

MR. YAREMKO: Would not the simplest solution be just add a section that any unit designated by either one party or the other as the bargaining committee, that any

agreement agreed by them shall be inclusive and binding upon the parties thereto?

MR. BURT: We would not have any objection to that for we have had difficulty.

MR. SPOONER: Would you not have to be rather careful for the unions negotiating committee might not be in a position ---

MR.BURT: I think that is what Mr. Yaremko means. It mjst go to the membership to be voted on. The Committee itself, unless it has delegated powers, cannot agree.

THE CHAIRMAN: Is not that exactly what Management is doing, getting it voted on by their directors?

MR. BURT: Not necessarily. We are placed in this position: Suppose for example that the Committee agreed to an agreement with Management, and then it were knocked down by the membership -- which happens very, very rarely. I have been in that very embarrassing position, and I want to assure you gentlemen you don't get anymore from the Management after you go back. You have to convince your people. Management is in a different position. When they go to their people they are told what to do, and that is all there is to it. So they come back and say "We are sorry. We cannot sign". It is very, very seldom the union is placed in that position.

MR. MacDONALD: What is the legal status of a memorandum of agreement when a conciliation officer is brought in from the Department, and I am referring now to this one in Fort Frances, where a conciliation officer came

in and a memorandum of agreement was signed by management of the local store and then it is repudiated. What is the legal status of that memorandum of agreement?

MR. WALSH: Very little legal status to that because the employees just strike, and the companies say he has no authority.

MR. MacDONALD: The company says what?

MR. WALSH: The companies say -- head office in Toronto say they have no authority to sign.

MR. MacDONALD: What would be in the bargaining programme?

MR. WALSH: That is just the point.

MR. YAREMKO: They could say he was in there to arrive at an agreement submitted for ratification. It would be a question of authority with which that person was endowed in each individual instance.

MR. MacDONALD: My question is the legal status of the memorandum of agreement has no legal status at all.

MR. WALSH: I would say it has no legal status.

THE CHAIRMAN: If it is executed by authorized officers it would be binding.

MR. YAREMKO: It would be a type of agency. The law says no person shall be charged in respect to land unless he signs the document, but on the other hand, he can authorize someone to sign the document on his behalf. If that authorization is proved, he is bound by it.

MR. MacDONALD: The management of the local store in Fort Frances signed a memorandum of agreement. It is binding and they are in violation of the contract.

MR. YAREMKO: Not necessarily. It depends on what authority he was given. The same as a bargaining committee of a trade union which may be authorized by the membership prior to the negotiations that any agreement you arrive at will be a binding one, and in that case you do not have to go back to the membership for ratification.

MR. BURT: That is true.

MR. YAREMKO: Unless you have that prior authorization complete, then you go back to your membership.

MR. BURT: Our Constitution is pretty rigid on us reporting to the membership. To get a commitment from membership prior to bargaining is like asking membership to buy a pig in a poke. Our U.A.W. membership just refuses to buy one of those things. So we go back. Our Constitution covers representation that is pretty thorough both from the local point of view and also the international point of view. As I have said, this is the exception rather than the rule. It is only a very few examples we could cite where Management have gone back on their agreement after signing, except during the course of an agreement. We have all kinds of claims -- a great variety of them -- and these claims have to be resolved through grievance procedure. After it is signed, you can pretty well rest assured you have an agreement on both sides.

Whatever happens after that is something else.

MR. WALSH: Signed by the proper officer.

MR. BURT: The president of a big corporation in Canada signs the agreement. General Motors is a good example, I think. The American Management come down here and negotiate the agreement. They don't sign it. The Canadian Management sign the agreement, and we know that is binding no matter if the influence comes from the United States, if the Canadian Management have signed their names on it and a Canadian president from each of their companies signed. The last master agreement we had in Toronto each one signed the agreement, although they did not appear on negotiations. The Management from the United States, they agreed to this agreement, and we took it to our membership, and they settled that long strike. It was the Canadian Management that signed it although the American Management had all the authority in the world.

THE CHAIRMAN: Section 14 (2)?

MR. BURT: This is the beginning of an entirely new proposal by U.A.W. in which we say that a conciliation officer is much better equipped to get to the bottom of a dispute and do it in a reasonable time than conciliation board. It is usually headed up by a county judge, many of whom have had no experience or very little, in Labour Relations, and do not come from communities where there are any trade unions. Sometimes you get good reports from the county judges and sometimes you get some awful ones.

We think that the conciliation officer, after he has had a tryout, that should be sufficient. The union should be entitled then to take economic action.

THE CHAIRMAN: We have had several representations made on this point, and we thought that perhaps 90 days would be a proper time.

MR. BURT: One objective that the U.A.W. is trying to strive for is to have the whole thing finished as close to the termination date of the agreement as possible. In the United States when the termination date rolls around, that is the date you either jump or you settle. They have had their conciliation and so on, and even there is a request by the State Conciliation Board. The union can agree to extend that time, but in Ontario here, and Canada generally speaking as far as the Federal Act is concerned, we have no power whatsoever to determine just when this thing is going to be completed.

MR. JACKSON: Is it not true most of your negotiations or your contacts are retro-active?

MR. BURT: No, that is not so. One of the big three, Chrysler on the other side of the line -- that is mentioned in this brief -- never paid retro-active pay
6 and have never gone retro-active on anything.

THE CHAIRMAN: No, it is being asked for just at the time -- you would make your request exactly 60 days or 30 days before they wanted to be at their maximum. You would check them at a time when they couldn't do anything

else, and therefore they could be unreasonable.

MR. MACAULAY: The bargaining process to catch the other fellow when he is not prepared to battle you. I agree with Mr. Burt. I do not see the difference between 30 days or 90 days.

THE CHAIRMAN: Supposing a company had only a short time of the year in which he operated at capacity, and supposing the union gave notice that they wanted to use conciliation procedure, and the limit of the time during which conciliation could take place expired at the peak activity of the employer, and supposing then that the employees could go onstrike at that time, at that peak period, you are putting the employer, I think, at a great disadvantage.

MR. MACAULAY: But you are putting the union at a worse disadvantage if they can only go on strike when he doesn't care.

THE CHAIRMAN: Then why not leave it like it is?

MR. MacDONALD: The point the U.A.W. is making, as it is you can stretch the 30 days into six or eight months, and have it come at precisely the point ---

MR. BURT: Let's take the history of one of the big plants here. Two years ago because the Conciliation Board delayed and delayed and delayed, none in the plant took action, and it is not unusual in those delays. The men in the plant were well organized, and they took action

against the company to get the Conciliation Board Chairman, who was a judge from a farming community and had no pressure on him anyway -- they were wrong in what they did in order to get that Board report. As it happened, they got the Board's report in two days, 35 men got fired and never got back to work for violating their contract, and they could not get another job in that area because they were black-listed.

That is one of the reasons why we say Conciliation Board procedure is unfair. It is discriminatory. It is not hard to put off a Conciliation Board. Anybody that takes a look at the table we have here -- and the employer can put it off until his time is ripe, but if parties were faced with a particular date of termination then they have each their chances to bargain for their best.

MR. MACAULAY: Also an opportunity of bargaining for the date of termination. It should go back to the bargaining table as to when the contract is to end, and if the employer can get it to end in the slack period, then you guys have not been so smart. Conversely, if you guys can get it to end at the prime period, then he is not so smart.

MR. MacDONALD: Mr. Burt has raised the question here of violation of contract. We have heard a great deal about the right to work and trade unions violating contracts and so on. Would you consider what is now happening in the automobile industry where six, eight, or ten thousand men have been laid off ---

MR. SIREN: 16,000.

MR. MacDONALD: -- 16,000 men have been laid off as a squeeze play of the Government to reduce taxes is violation of the contract?

MR. BURT: After reading the Globe this morning, a statement of the Minister of Ontario Revenue, I am inclined to believe the automobile companies are on strike against the Government to get some excess tax concessions. Of course there is nothing in the law to prevent them - - -

MR. MacDONALD: This is a violation of the contract - - -

THE CHAIRMAN: Now Mr. MacDonald.

MR. MacDONALD: If a union violates the contract and goes out and withdraws the workers -- it is amazing how you people don't want to touch on something ticklish -- but if a union withdraws its work and it is a violation of the contract, we hear howls to the high heaven. Here we have an employee violating a contract ---

THE CHAIRMAN: Now, we don't know what you are saying. Please, don't. Let us get on with this.

MR. YAREMKO: That is not the case. I am not going to sit here-- you will have a ruling and if it is in the terms of our reference, then we will discuss it, but otherwise we will not discuss it. I would like to ask Mr. Burt: Are you in sympathy with the position that the manufacturers of automobiles are taking in regard to the excess tax, or are you not.

MR. BURT: I cannot answer that "Yes" or "No". We are in sympathy with the idea of reduction of excess tax, and as far as that is concerned, we are in Management's corner, because we do not believe the low priced car is a luxury. We think it is a necessity.

THE CHAIRMAN: Let us get on with our Act.

MR. MacDONALD: Let the man talk.

MR. BURT: And if it is passed on to the consumer, and if the price is cut, we are making some proposals too.

MR. PERKINS: Under Section 14 (2) in which you say the Conciliation Officer should conclude his negotiation 30 days after his appointment -- can you explain to the Committee -- you have an agreement nowwhich has a has a 60-day expiry clause. You end negotiations sometimes within the 60 days. That would only leave 30 days of negotiations. Is that satisfactory? Is that sufficient? 30 days of negotiations between your bargaining committee and the company?

MR. BURT: Well, we say no request has been made for conciliation, the union is free to strike on the date of the termination of the agreement. The 30 days means if we have made a request for conciliation, there would be an additional 30 days.

MR. PERKINS: Is it your experience that 30 days with a conciliation officer is sufficient?

MR. BURT: The way the Act is now two days is

sufficient because he has not accomplished anything anyway in the big contracts. In the small ones he does, but you know how hard it is. I am not telling you anything.

MR. ELDON: Let us hear this point now. The conciliation officer comes in today. It is very rarely that he will spend three days. Very rarely. Because he knows that he can fall back on the Conciliation Board.

Now, the conciliation officer, he does make an effort to conciliate. He makes that effort. The Board makes no effort at conciliation. We tell the Board what we want, and the company tells the Board their objection, and the Board writes a report. I have been on Conciliation Boards that have tried to conciliate a dispute over the past ten years. Every conciliation officer does make an earnest effort, and I think if the conciliation officer had the last crack with no more boards, the parties would maybe spend thirty days with the conciliation officer and settle the dispute.

The conciliation officer, he comes in -- some of them come in -- and they listen to the parties, and they recommend to the Board, but if he is the last man, if he is the final guy, then they will talk business, but the way it is now they say, "Well, let it go to the Board". I, myself, know that the company will pay no attention to the conciliation officer. They advise the conciliation officer just to go back and report to the Minister, to send it back to the Board.

MR. PERKINS: In your opinion a conciliation officer could perform a useful purpose of conciliating a dispute if there was no board following him?

MR. ELDON: Right.

MR. BURT: As a matter of fact they settle a lot now. A number of cases are settled at the conciliation officer stage and you never hear anymore of them. We have dozens of them. A conciliation officer comes in, not more than two or three days. He never sits for thirty days. TWo or three days and he can find out if he can settle it or not. The other thing is after a conciliation board has met, we end up with the conciliation officer anyway before we go on strike.

In many, many cases, we just don't take the Conciliation Board's report and say, "Well, this is today; now, seven days from now we are entitled to strike". We
7 don't do that. We contact the Department of Labour. We say, "We have trouble in this plant. We need help", and quite often we end up in the Deputy Minister's office, and we sit there for a couple of days, and the strike is avoided. The public never hear of this kind of case. If it is impossible to avoid it, we still go back to the conciliation officer. I would say in the most serious cases it is not the Board who settles anything. They are gone. It is the conciliation officer and the Department of Labour that settles the tough ones.

MR. MACAULAY: A lot of people who appeared before us, who had no axe to grind one way or the other,

consider that the conciliation board on many occasions has acted in a conciliatory role, and your views are not necessarily -- I would want you to know -- shared by all of the Labour movement. There are many who feel that to cut out the Conciliation Board would be a mistake. In fact, there are groups who have appeared before us representing Labour who state just that.

Now, there is a difference of view. One is diametrically opposed to the other. No matter what we do we are going to be criticized by both extremes, and we would be happy to have your guidance on the matter, but we would want you to realize that there are people who feel that the boards do act in what is called an accommodating way. In fact several board chairmen have told us that was his main function.

MR. BURT: I think I know the gentleman you refer to,, and I agree he has acted in that way. He would make a first-class conciliation officer, but I think he is handicapped by being Chairman of a Conciliation Board. I do not think his whole effectiveness can be used in that way.

The other objection, of course, that particular gentleman has been so much in demand, he causes tremendous delays in settling these things. If he does settle them. Our records show -- if it is the same gentleman -- our records show we have as many he has not settled as he has settled, in our own particular union.

I

THE CHAIRMAN: Somebody has suggested, Mr. Burt, that after the Conciliation Board has made a report, that report ought to be submitted to the membership of the union and there ought to be a secret vote, because up to the time that the conciliation report has been drafted, many of the matters in dispute have been resolved and there are only a residue left, and it may be that the membership and the company will be perfectly satisfied to adopt the report.

MR. BURT: We always submit the reports to membership, but then likewise, where does Management submit them? To one guy. What we say, if this is going to be the suggestion, and I think you mean a supervised vote ---

THE CHAIRMAN: Oh, yes.

MR. BURT: A supervised vote by some outside party, how about the company's shareholders voting on the report too?

MR. MacDONALD: That is preposterous.

MR. MACAULAY: I do not think there is an apt analogy. But is it the only answer in any event in any place in life to say that because one thing would work that it should not be tried, and because you want something else, do two wrongs never make it right?

MR. BURT: We have not come to the conclusion there is anything wrong.

MR. MACAULAY: Is it ever any reason to say it should not be done in one case because it is not done in another?

MR. BURT: No, I do not think that answers the particular question we are dealing with.

MR. MACAULAY: Because quite frankly, Mr. Burt, I myself -- although I do not believe in this particular proposal of submitting the same to the employees -- I would like to have a better answer than "Well, if that is going to be done we have got to do it to shareholders". Frankly, I would like to ask it on the merits, because there are merits, and I would like to see somebody with the guts to face facts and say it should be. I know reasons, but I do not think I am here to submit them on behalf of anybody else.

MR. BURT: It is done in our union.

MR. MACAULAY: I mean by law, requiring that it be submitted.

MR. BURT: That is the suggestion that we are dishonest in the way we conduct elections, although the elections have been held even prior to the time there was an Act in force in this country where they did get assistance through the Department of Labour and so on -- I refer particularly to the Ford vote and the Chrysler vote. There was no legislation in effect then. We assisted in the conduct of that vote, but it was absolutely unnecessary to have all those Government people up there conducting the vote to make sure everybody was honest. Don't do that in provincial elections.

MR. MacDONALD: If you are going to predicate the meaning of the Act on the assumption that the law should

be such that you predicate the same -- you place the same restrictions and the same requirements on both parties ---

MR. MACAULAY: I do not think that is the issue.

MR. MacDONALD: Surely the law will apply to both sides, and not just one.

MR. MACAULAY: I do not think that is the answer.

MR. BURT: We take secret ballot votes, and all members are entitled to vote, although we have to decide on the basis of who showed up at the meeting. All members are entitled to vote. We take those votes. There is no evidence that I have seen anywhere that the vote has been crooked. Why do we need a law to take care of something that does not exist?

THE CHAIRMAN: We do not need to have a law to take care of anything as far as the steel workers are concerned, but there are other unions, and we happen to know that the Committee has been armed with authority to call a strike vote before negotiations begin at all. I am not complaining about your steel workers. Let's get on, then.

MR. MacDONALD: Before we leave this Conciliation Board, there is one final question I want to get from the U.A.W., and I realize you are speaking from your own experience, but it has been suggested by some spokesman for Labour that the Board conceivably could be of greater benefit

if it is a small local.

MR. BURT: Small group of people?

MR. MacDONALD: Small local union, perhaps in the initial stages of organization, and it is not accepted by Management yet, would that kind of local rather than your big local -- does a Board in your experience offer an opportunity to get facts out and examine their merits more accurately and perhaps expose the recalcitrate nature of the Management and so on?

MR. BURT: No.

MR. SIREN: May I answer further to that? Mr. Burt is correct, but in my own personal experience, I would much sooner deal with the conciliation officer who was aware of the problem in large or small plants and who had experience in that field, and who is qualified to work with the two parties than to deal with the Board who has neither any real interest, responsibility or anything else as far as that goes, as far as the two parties are concerned. Where you have a Board dealing with it, their anxiety is to get it over with. They are not concerned with the type of settlement that is reached, how it might affect the other party, and even in the case of a small plant or small group of individuals or small bargaining unit, I would say that the conciliation officer stage is a much healthier relationship in dealing with industrial relations.

MR. MACAULAY: One of the points that has been put to us, and it appealed to me when it was said was that a

Board becomes in effect a contest to see who can put the best foot forward rather than to see who can offer the greatest compromise.

THE CHAIRMAN: Shall we go on to Section 14 (3)? Page 15, Section 15 to 29.

MR. BURT: This also deals with the Conciliation Board. This whole thing is hooked up. We are asking that the conciliation section, this section 15 to 29, be eliminated. Taken from the Act. I would like to make this observation too, that there should be some kind of comparative freedom between Labour and Management in Canada. We say we do not have it. We say that the Act is restricted. I have read the Canadian Manufacturers brief, and the records certainly do not bear out what they say. From our point of view, the records show we have had considerable success with bargaining and with
3 management, and management has enriched themselves since the advent of the industrial union in 1937. They have become more powerful and richer. We say if management are going to have freedom to move from place to place -- like Fords. You have to have 16 years' service to have a job in Windsor. We have people in Windsor who have been as long as 30 weeks off and they have 15 years' seniority, and their kids are now in high school and they can't afford to send them. The company can move out of town or go where they like. On some of the remarks made by the members of the Committee -- "We can't stop a man from going out of business", and when you are talking about men, you are talking about concerted action; talking about Chrysler, Ford,

or General Motors, and let them take at any time that concerted action. They don't have to say "We are going to move to Oakville" or this, that or the other thing. We cannot anticipate those things, and quite often they arenot included in our agreements. So they may or may not move people, and when they are moving people, they are moving people with all those years in Windsor, who have established their roots in Oshawa or Windsor or wherever, and there is no restriction on them at all. No restriction on business, but they say they have to do it. They say the centre of their consumer buying power is in this big metropolitan area of Toronto. It doesn't make any difference to collective bargaining. We were certified and wages have been levelled off.

However, we say if they are going to have that freedom we should have the same kind of freedom of action, and if they can take a concerted action which they obviously have been doing recently without consulting anybody, why is the Labour Movement restricted?

Why do they have to go six months through a conciliation board when they can disrupt the lives of five of the people in the community and move out of town without even saying good-bye. Move the officers, just pull up and move. There is no equality there.

MR. MACAULAY: Which instance were you referring to there?

MR. BURT: I am referring to a number of them now. I am referring to Ford Motor Company particularly in

its move to Oakville, but since that time as a result of that move there has been hundreds and hundreds of people affected by the Parts Plant move who wanted to get in the near shadow of the throne near Oakville, so they go to Oakville and establish a plant. .There is a whole bunch of Parts Plants who have likewise moved away. They don't do it on account of the union. They know we are going to organize, and we have. There has not been one of them, if theywanted to escape the union, where they have escaped. We have just organized them, and they have working conditions pretty well levelled of. It has taken considerable effort, and yet they do those things.

MR. MACAULAY: Don't you think that is economically sound? Think of allthe people it has given jobs to.

MR. BURT: Where?

MR. MACAULAY: I assume they have people working for them. If you are working for them, there must be somebody.

MR. BURT: Would you think the 4,000 guys in Windsor, or 2,000, who are now out of work have appreciation of the work? They say it is fair because 2,000 in Hamilton and Oakville get our job? That is what you are saying. That is not fair. We are suggesting to the Committee - - -

MR. MACAULAY: What are you suggesting?

MR. BURT: We are suggesting to the Committee in the construction of this Act you should remove

restrictions on workers to act too, because we have as much right to say to the Ford Motor Company after the contract has expired "We are going to take economic action" as they have during the life of the agreement to say "We are going to move to Oakville".

We say to you this is another argument in which we say you should take restrictive provision of conciliation out of the Act. The definition "strike". There is no legal strike status in the Act. The Act says you cannot go out on strike until you have done certain things. It doesn't give you any legal right to strike.

MR. MACAULAY: The point I made is the Act does not create a legal strike. It just says unless you have done a certain thing the strike is illegal.

MR. BURT: What you say in the Act, you define a strike. And yet a strike has no real legal status as such. It is defined at the start of the Act, and it says what a strike means, and brother, you really tie that down and we have felt that particuarly with companies. You are turning out 30 pieces an hour today and tomorrow you may be turning out 50, and we have to take it to arbitration and we have a judge who never worked in a plant in his life and is not qualified to deal with this kind of problem.

MR. MACAULAY: When you were here before you gave us some very valuable evidence in relation to certain problems, one of which you spoke about, Mr. Burt,

was the power of Management with reference to moving employees, speeding up or slowing down an assembly line. And I think, hiring and firing. I think those things were considered some of strong arguments of Management. Let me ask you a couple of questions if I may. In your collective agreements do you not make some provision with respect to speed-ups and slow-downs or the amount of production?

MR. BURT: You cannot make an agreement on production standards with the company except the machinery can be provided in the agreement to solve a dispute as a result of increase in production or proposed increase in the standard or increase in manpower. There are so many factors involved you could not tie it down in an agreement. It is impossible. All you can do is provide certain machinery. Management, during negotiation, will make pretty sure youdon't get too much machinery to settle those things, but in the final analysis if you don't agree, and no matter what is in the agreement Management can say "No," and then you are faced with arbitration, and then you are faced with the other thing I spoke about.

MR. MACAULAY: That covers speeding up and slowing down your production. What about the discharge of men? That is covered by your agreement?

MR. BURT: Yes.

MR. MACAULAY: And moving of them from one place to another, and in any event retaining their seniority and one thing and another; rates of pay.

MR. BURT: Not necessarily rates of pay. You are talking about department to department or plant to plant?

MR. MACAULAY: Say from department to department. Is that covered?

MR. BURT: Yes.

MR. SIREN: Normally.

MR. MACAULAY: The type of thing that was not covered I assume you meant was the situation of the Ford move for example to Oakville?

MR. BURT: That is right.

MR. MACAULAY: That was not covered? So your agreement would not cover a man who was employed and a member of your union if he was working in Windsor, and he was moved down to Ford here in Oakville, he would not be covered?

MR. BURT: He is covered now.

MR. MACAULAY: And he was not at that time?

MR. BURT: No.

MR. MACAULAY: But if he had stayed in Windsor and had gone from Plant No. 1 to Plant No. 4 in Windsor, in the Ford plant?

MR. BURT: He is covered.

MR. MACAULAY: It was this extraordinary move to a non-existent factory that created the problem; is that it?

MR. BURT: Yes. That is what created the problem, and it is not confined to Ford.

MR. MACAULAY: ..Won't you be writing something

into your agreements with Ford and the other companies in the future that if they create a new factory in a new centre of industry and they move their employees or take them on, then they are covered?

MR. BURT: . The company will tell you you are dealing with a hypothetical situation. That would be desirable to have in an agreement. However, that does not solve the social problem.

THE CHAIRMAN: Are most of the employees in the automobile plants on an hourly basis or on piece work basis?

MR. BURT: There is very little piece work in the automobile industry now. It is eliminated. The last one was General Motors. There are some foundry operations -- I am talking about the big plants now -- where they have piece work, but otherwise it has been eliminated.

MR. SIREN: Even with the straight hourly rate management demands certain work standards.

MR. BURT: "Measured day work" they call it.

MR. MACAULAY: That is what I was trying to
9 get to. I am the kind of fellow that should not be on one of these Boards. I don't know what this standard is you are talking about.

MR. SIREN: Measured day.

MR. BURT: They put a production standard on your job and pay you a flat rate. For example, you could be in a plant where you would unload 500 tires a day.

MR. MACAULAY: Dirty work too.

MR. BURT: Yes, dirty work. 500 tires unloaded in a day. You get so much a tire maybe over 400 tires. Then you start to make a bonus, or you make piece work so much a tire. They have changed that to a flat rate. They give you $1.60 an hour flat rate.

Now, they will say to you "You have to turn out 500 tires for $1.60". That may reach your average bonus. We will set a rate for 500 as an average bonus rate. We are not asking for an increase, but we want a flat rate. That is how it is converted. If you get that kind of deal from the company you arelucky.

MR. MACAULAY: You are lucky with $1.60. It was 82 cents an hour when I was there.

MR. BURT: Did you have a union in there then?

MR. MACAULAY: Oh, yes. What happens if a fellow falls down on the - - -

MR. SIREN: Subject to discipline. Cut his pay. He might be discharged or suspended.

MR. PERKINS: Under Section 15 to 29, 15 (2), 29, it is your recommendation that the Conciliation Board be eliminated? Are there any members of your Committee familiar with the Taft Hartley Act procedure? I don't think the Committee has had any representations in regard to the conciliation procedure and what follows in your Detroit plant.

MR. BURT: In the Detroit plant, what we do --

take for example the Ford Motor Company or G. M. on a national basis, they have a master agreement and they are certified on a national basis. The agreement expires on the 25th of June,1958, and the union gives them 60 days notice of its desire to bargain. There is no conciliation whatsoever.

If it looks like trouble before the 28th of June, the State Mediation Board -- the parties can request State Mediation Board, and they require a 60-day cooling-off period which our union gives to the State at the time of bargaining so it will end at the termination of the agreement.

During that period of time if there is a chance of trouble going to arise, the State Mediation Board may initiate themselves a request to the parties to have a meeting which neither party has to agree to -- the company or union may ask for the services of the State Mediation Board. Outside of that I don't know of any conciliation process unless they use the power of the president as they did in the Steelworkers Dispute. I don't know of any other restrictive law governing that kind of set-up in the States.

I know it is the same in Ohio, and General Motors chain -- we have plants in more than 50 percent of the States. There are 175,000 workers involved in about 130 plants, and the same process applies all throughout.

MR. PERKINS: None of this conciliation or mediation service has been successful or not, at the termination

of your agreement you are free to go on strike?

MR. BURT: What is that?

MR. PERKINS: Whether the Mediation Service has been successful or whether it has failed, at the end of the termination period you are still free to go on strike?

MR. BURT: That is right, providing you have given a 60-day cooling-off notice.

MR. PERKINS: What is this fact-finding Board they have over there?

MR. BURT: I cannot answer that. It is only established to settle a dispute.

MR. ELDON: I think the fact-finding Board is about the same in Canada. Something like the railroad. I would like to point out this fact, in the State of Michigan, it is one man that goes in. One man, not a Board.

MR. MACAULAY: The Steelworkers state in their opinion there was a very serious problem involved in negotiating beyond one jurisdiction. That is, attempting to negotiate for industry that was more than province-wide. It may extend into two or three provinces, and also in the case of industry here that might be down -- or owned by -- a company in the United States. They felt negotiations should follow simultaneously in both countries. I cannot recall whether you have covered that problem.

MR. BURT: Fortunately in that instance our dates this year or next year coincide. We will come in after the American negotiations, which is desirable from

our point of view. We would have difficulty arriving at an agreement in Canada if the American negotiations had not been completed.

MR. MACAULAY: It is not troubling you as much as it does the steelworkers?

MR. BURT: No. I think the steelworkers -- they have a couple of places where it would be a problem to them.

MR. MACAULAY: And apart from the United States, it is no problem to you to negotiate in different provinces separately?

MR. BURT: Oh yes, we have that problem with General Motors and Ford. We asked the Ford Motor Company for a master contract covering their plants in all provinces. Our operations in the Western provinces are comparatively small companies, and of course we are confined to them, and we did ask for an agreement covering all the plants, and the company would not agree.

The best we got out of the strike settlement on that was the Ontario agreement with the Ford Motor Company, although all the conditions -- practically all of the contract terms are identical between the Ontario agreement and the one in Montreal and the ones in the west, throughout the west.

MR. MACAULAY: Even if they had agreed, Mr. Burt, and you had one master plan, each province's legislation would come into play in relation to either a contract or conciliation or some other problem; the date might be

different, and the procedure might be different, and even though you had an agreement you would still have to go through various jurisdictional problems.

MR. BURT: We would not have a problem because in the case of -- I believe it was the case of the packing house workers where they have master contracts with plants throughout the west as well as Ontario and Quebec, and they got the provincial ministers in those provinces to agree that Ontario would establish the Conciliation Board and they would agree with the findings of that Board and would satisfy their legislation.

The obstacle is not in that field at all. The obstacle is refusal of the company to include those people. I feel quite sure we would only have a problem maybe in one province, and that is British Columbia. I don't believe we would have a problem in any other province on the master agreement. It seems to me that these problems were raised by G. M. and by Ford, and in Chrysler we have a problem with them that has just arisen recently, but I think if the parties were sincere in their desire for master agreements then we would not have any trouble in influencing the Minister of the province.

MR. MACAULAY: Even if the parties were sincere and they did have a master agreement, and the Minister of Labour did not want to waive their jurisdiction, there is nothing to obligate them to do so?

MR. BURT: No, but there is no obstacle for

signing the master agreement.

MR. MACAULAY: No, but you still have to go through -- if you want to have a nation-wide strike, you may have to strike here sooner than there.

MR. BURT: The packing house workers, they have had a national strike since the legislators have passed their own laws and nothing ever occurred. They have had national strikes.

MR. MACAULAY: What we are trying to obtain is a greater form of perfection than there is at the moment, and some steelworkers say it is a problem that is going to increase in importance rather than relying on what has happened in the past.

MR. BURT: I think that is correct, and I do
10 think our proposal, and we make this proposal to the Federal Government -- particularly concerning the packing house workers, declared to be a master industry and get co-operation of the provinces so that a master agreement can be negotiated, because you are liable to have half a dozen strikes at the same time. One in Ontario and another in Saskatchewan after you settle the Ontario one, and one in British Columbia after that again. The most important thing we are talking about -- participation -- you don't get it if the main plant in Ontario signs an agreement and other plants out in the west have to bargain after that so they are not properly participating in the bargaining.

MR. MACAULAY: You can have a national strike and it would be legal in Ontario and illegal in Quebec,

and that seems like an unfortunate type of situation. But in any event, just to conclude that aspect, you do not make any recommendation for any amendment or additional section to the Ontario Act dealing with that problem?

MR. BURT: No, we have not made any.

MR. MacDONALD: Has there been any trend in the automobile industry for the negotiation that takes place - - -

MR. BURT: What is that?

MR. MacDONALD: Has there been any trend in the automobile industry for negotiations that take place in the States in applying to Canada?

MR. BURT: A request to go back on their agreement?

MR. MacDONALD: Yes.

MR. BURT: We have not got to first base on the big ones, but we have two plants under internationäl agreement. We have Chambers Spark Plug Company and Auto Light Manufacturing in Sarnia.

MR. MacDONALD: In those cases, are you not going to be faced with the same kind of situation that the steelworkers are faced with where the negotiation took place with Bethlehem Steel and they go through all the procedure at the top level but they do not go through it for the local level -- technically they have no legal right to strike.

MR. BURT: That is true, but from a practical

standpoint what really happens, we can't go on strike. We would have to wait until we completed the process of the law. Our American brothers may be on strike -- you know what Conciliation Boards are. I don't have to tell you again -- and if their strike question is settled prior to the time we are legally able to go on strike, we are going to pick up the American marbles anyway, and we are going to have a chance to bargain.

MR. MacDONALD: You have not - - -

MR. BURT: We have not participated in the strike. If you accept our proposals, then we will be in a position to help our American brothers if they need help. Otherwise we won't.

THE CHAIRMAN: The meeting is adjourned until two o'clock.

---(Whereupon the Committee adjourned at 1.00 p.m., to resume at 2.00 p.m.).

---On resuming at 2.00 p.m.

THE CHAIRMAN: Gentlemen, shall we start?

MR. YAREMKO: Mr. Burt, I would like to ask you something about page 20: On page 20 in Section 30 you say, and perhaps when you wrote that sentence you may have had your tongue in your cheek,

> "Apparently we are not making as
> "much progress in Labour Relations
> "as we are in most other things in
> "Canada".

MR. BURT: No; you see, you have the same Conciliation Board in existence. Before that, there was, many, many years ago and I believe Mr. Woods also makes reference to the very same thing in the same way but I pointed mine up a little more sharply; there was the Industrial Act which was passed to cover the disputes in the railroads and was a Federal Act and then during World War II, not having any other instrument and not being in a position of where they wanted to go forward and indulge in what we have now come to know as certification, the Government said that any industries not engaged in war work during World War II, if it were a plant as we had in Wallaceburg, not engaged in war work whatsoever, you did not have to go through this process that you do now for collective bargaining. After the war they applied this Act which was never designed in the first place to deal with labour disputes in industry. This cooling-off period was felt necessary in the case of utilities and railroads but not in ordinary industry. I

understand a former Prime Minister, the Honourable Mr. King, was responsible for that Act. I do not think there has been a great deal of progress made, and in some respects we have gone back a little as far as our respective freedom; we have sacrificed our freedom for a procedure and I think we have made considerable sacrifice in that respect.

MR. MACAULAY: Well, Mr. Burt, is that not true in every walk of life?

MR. BURT: I do not think freedom should be sacrificed only when it is necessary for the good of the whole. I do not think it is necessary in this case. I think we can still have our freedom if we do away with this rigmarole.

MR. YAREMKO: I was under the impression we had made more progress in the past fifteen years in Labour Relations than, perhaps, we have made in the forty-five years prior to that fifteen years. This sentence of yours, does it apply to Labour Relations in general or are you restricting that to Section 30?

MR. BURT: I am talkingabout the Act. Quoting Professor Logan,

> "The chief significance of the
> "Railway Labour Disputes Act for
> "us today lies in the fact that it
> "was a stepping stone on the way to
> "the Industrial Disputes Investigation
> "Act, and that its changing prescrip-
> "tions during its slow passage through

"Parliament revealed the groping
"trial and error in the thinking of
"the Legislators of that period . . .",

and on page 21 he continues his discussion of the Industrial Disputes Investigation Act by saying,

" . . . This Act was operative over
"a period of forty years and . . . many
"of its terms are incorporated in
"present legislation . . .".

"Apparently we are not making
"the same progress in labour relations
"as in other things."

If you compare the progress in labour relations to the progress and technology in the automobile industry then we are way aback in 1927 in labour relations.

MR. YAREMKO: The British North American Act was passed long time ago and although it is not perfect it has stood up pretty well.

MR. BURT: There have been a lot of interpretations of it since it was passed in 1867.

MR. MacDONALD: There are alternative views and has been interpreted by the Supreme Court of Canada as a straight jacket we have survived.

MR. BURT: And there is a feeling in many parts of Canada that something should be done about it.

THE CHAIRMAN: Supposing we did not have any Act at all?

MR. BURT: If you do not have any rules to live by you have anarchy and you gentlemen know that as well as I do.

2 THE CHAIRMAN: Shall we move on to Section 31?

MR. MacDONALD: The nub of your proposition here is on those sections of the collective bargaining agreement which are not arbitrable and that you should be free to go on strike. What is the specific nature of the kinds of issues in which you feel you should be free to seek that action?

MR. BURT: One is the production standard; the determination of how much work a person should do in a given period of time which now is left to Management, in the first instance, and of course we have the right to disagree and, then, the determination of an umpire. Within the present law if an umpire said, this matter is not arbitrary under the terms of the agreement, what happens to the dispute? Because he says that it is not so, that is not the end of the dispute. The dispute still exists.

MR. MACAULAY: Have you ever had that happen?

MR. BURT: Yes, it happened in the Studebaker Plant not long ago. The Court dealt on the basis only that the umpire had exceeded his jurisdiction, not on the merits of the case. We, eventually, got a decision on the merits of the case and it was a very important case in principle although it only concerned three janitors. The company brought in outside help and it took three jobs out of the bargaining unit. Judge Cross ruled in our favour

and the company appealed it and claimed the judge had exceeded his jurisdiction. Supposing the Supreme Court had said, we agree with the company and the judge did exceed his jurisdiction, that would mean that decision would have no effect and that would mean we would have lost three jobs in the bargaining unit. Supposing our local in Hamilton says, we are not satisfied and we want to take the company on but we cannot because there is a law, and we say that is one of the things that we should be allowed to strike on during the term of a collective agreement. During a collective agreement we are prepared to sit down with a company and determine, as they do in the United States, as to which things are arbitrable and which things are not arbitrable.

MR. MacDONALD: Mr. Burt, just following along this point, have you ever made a study on the relativity of strikes on this kind of thing and whether it does produce more strikes?

MR.BURT: Mr. MacDonald, I would say it produces more settlements. We have had strikes in between the contract terms but they get down to it and rub their elbows on the table and come to a conclusion. In this way they do speed up the conclusion but by the time a county judge gets around to it and it may take two or three times as long and in the meantime what do you do? Does the company maintain the old standard until the umpire says they should not do that or do they impose a new standard and you do not do it and then you get suspended for a couple

of days. You go back for a couple of days and you find you cannot maintain the new standard so they fire you and put a race-horse in your place. The result of that is (1), there is a discharge and (2), we have a grievance. We are anxious to get the fellow back to work because he is probably being denied the benefits of unemployment insurance, the back to work grievance does lose some of its quality and is sometimes almost forgotten about because you are so anxious to get the guy back into a job. We are getting more and more speed-up grievances and Management is taking advantage of the situation.

MR. MACAULAY: Mr. Burt, in answer to my friend's question about the relationship of strikes and settlements in the United States, on what evidence are you basing that?

MR. BURT: Our union has had that question raised before and I have no evidence before me but I can certainly secure the evidence.

MR. MACAULAY: Could you do that because it is rather an important thing.

MR. MacDONALD: I agree with Mr. Macaulay that it is important because in many cases you draw a facet of settlement over a festering sore that goes on and on.

MR. MACAULAY: Mr. Burt, there is a second thing that occurs to me: As a legislator it occurs to me there is a bugaboo drawn on this type of amelioration legislation saying that it is going to produce a great rash of

strikes. If the evidence in the United States is to the effect that it has not, it seems to me it tends to wipe out this myth.

Mr. Burt, you were conferring with your colleague as I was speaking and so, I repeat: I felt there is a myth or a bugaboo or something in relation to loosening these things because of the fear of a rash of strikes. Now, if the evidence in the United States is not inclined that way there is good reason to dispell that idea and I think it would be a good thing to have whatever evidence you relied on because I know you would not make statements to us that you could not support.

MR. BURT: Mr. Macaulay, then what you want to know is how many times we have been faced with this particular kind of problem and where it is in the cases of speed-up problems.

MR. MACAULAY: No, no, that is not what I want to know at all.

MR. BURT: Mr. Macaulay, I have not finished. And you also want to know how the plant was struck between the contract date on account of this problem.

MR. MACAULAY: No, Mr. MacDonald said, if there is legislation, and you said that there is legislation in the United States to which you made reference which gets away from the system we have, and has it been found that with this kind of problem there are fewer strikes in the United States in industry because of that type of procedure or lack of it

and you said, that is right, Mr. MacDonald.

MR. BURT: Yes.

MR. MACAULAY: Now, that is the evidence to which I would like you to direct your attention.

MR. BURT: Of course, there are no strikes in Canada in this type of thing because the matters are arbitrary. So all I can get are the number of strikes that occurred in our union as a result of speed-ups compared to the number of settlements.

MR. MACAULAY: In the United States.

MR. BURT: You really cannot compare with Canada because a strike on a speed-up issue is illegal and that, in itself, is a deterrent and has acted as one. I am not convinced that we should not have a loosening up because there might be some strikes.

MR. MACAULAY: Let us get away from that: You have answered the question and your answer was there is evidence in the United States.

MR. BURT: The question was directed at if the legislation was loosened up do you think it would result in a rash of strikes?

MR. MACAULAY: No, Mr. MacDonald was making reference to the United States.

MR. BURT: And I said it was not so in the United States.

MR. MACAULAY: Right, that is the very point. On what are you basing that answer that it was not so in the United States?

MR. BURT: And I also said there had been strikes on these items in the United States. I do not know what comparison you could make.

MR. MACAULAY: Whatever it was you based your statement on, it was not so in the United States, I want to know on what evidence did you base that statement.

MR. BURT: Very well, but I did not say there were not any strikes in the United States.

MR. MACAULAY: Okay.

MR. BURT: That is what you are inferring.

MR. MACAULAY: No, I am not. I wanted to clear it up in my own mind and to make it clear to the members of the Board and I would like to have that evidence.

MR. BURT: I am quite convinced that production standard agreements in the United States can be negotiated to a more successful conclusion than we can here where we have to go to arbitration.

MR. ELDON: Mr. Chairman, may I add this: In the United States the employers themselves must submit a production dispute to an arbitrator but they refuse to do it.

MR. MACAULAY: Then how do they do it?

MR. ELDON: They battle it out but here they are compelled. What do we do? We have submitted production disputes to arbitration; each party puts its case, the arbitrator says, I do not know anything about this and I will hire an engineering firm and they will send in a Time Study man and they have to take the word of a third party.

In addition, we have to turn around and pay half of the expenses of that engineer for making that study. In other words, the arbitrator says, I am not competent to do it and if he is not competent to do it, he should wash his hands of it.

MR. MACAULAY: Do you mean, Mr. Eldon, that any arbitrator who is involved in an arbitration should be capable of doing that and if he states that he is not, then he is not competent to do the job?

MR. ELDON: Yes. In this particular instance there was an arbitrator and he said, I do not know anything about it so I will get an engineering firm and the engineering firm took a Time Study and decided in favour of the company. Our thought on the matter is that if an arbitrator says, I am not competent to do the job, he has no right to get an engineering firm because he was never given the right to get an engineering firm.

THE CHAIRMAN: Mr. Eldon, and what would happen after that?

MR. ELDON: It is right back to the parties. As long as the Labour Relations Act says, you cannot strike during the life of this agreement, and we cannot reach an agreement then the company now imposes that new standard and if the employee is not able to live up to that standard he is discharged. There is the case of a girl who was discharged because she could not make the new standard.

THE CHAIRMAN: And then what happens; are

they at liberty to strike?

MR. BURT: They are at liberty to strike or come to a settlement. In Canada, even though General Motors are in agreement with us in the United States, they told us they would not write a clause into the agreement which would give us a right to arbitrate a production standard. We do not have that right; the only right we have is to arbitrate a Time Study and the Time Study was based on the wrong assumption. It was wrong because the company said this: We will not submit a production standard grievance to an umpire and let a third outside party tell us how much work we are going to do; how many cars we are going to turn out. I said, in Canada we are restricted by law and cannot take action and the answer was, it is up to you to get a legislator to change the law.

THE CHAIRMAN: How do you want the law changed?

MR. BURT: To give us the right to strike as it is in the United States.

THE CHAIRMAN: But the agreement would have no force.

MR. MACAULAY: Yes, Mr. Chairman, the agreement would have force but it would not have force in relation to this approach of the problem of the production standard.

MR. ELDON: The way it is set out in the United States in the agreement it says the arbitrator shall have jurisdiction over this and shall not have jurisdiction over that. The point is the American experience has shown

itself to be an effective way of coping with the problem and effective with the people who cope with the problem.

MR. BURT: The present agreement is a little different from the previous one in the relationship to this problem, this is in the G.M. agreement, it indicates that if at any time the law was changed then we would be free to go on strike on a production standard basis.

THE CHAIRMAN: Mr. Burt, could you let us have a copy of the Standard American clause?

MR. BURT: Yes, Mr. Chairman. There is no inconsistency in the attitude of Management in the United States as there is here. To my knowledge, in the United States there is no Management that allows a production standard dispute to be decided by an umpire. The attitude of Management here is they will allow a Time Study, whether or not in the opinion of the umpire it is fair or unfair. If the umpire finds it fair the standard is imposed and if it is unfair the Management again sets a standard and in order that it be determined whether it is fair or unfair it has to go through the same process again which may take months. We have arbitration cases now where we have had hearings four or five months ago and we are still waiting for decision.

MR. MacDONALD: Would it be correct to say that most wild-cat strikes in Canada derive from these non-arbitrable clauses and contracts?

MR. BURT: I think practically all of them.

MR. ELDON: I think that is the only reason.

MR.BURT: Of course, there have been some wild-cat strikes for which there has been very little reason and we admit that.

MR. YAREMKO: Is a wild-cat strike where the matter has been arbitrated?

MR. BURT: And there is no recourse.

MR. ELDON: I do not remember one strike the U.A.W. has ever had against an arbitrator's decision. We have always accepted it. We have had strikes by management against the decision and they have refused to put them into effect right here in Toronto. We have always swallowed our resentment and accepted the decision and waited until the contract rolled around again and have never refused to accept the decision.

MR. YAREMKO: Is your point, Mr. Burt, that you want certain things -- it is not a question that somebody has called that non-arbitrable but that there are some things you do not want to go to arbitration. There is a distinction and you state both problems in this paragraph. What you are really driving at is this: There are some things you would not like to go to arbitration and still you would like to have the right to strike.

MR. BURT: We think that there are some things that are impossible for an arbitrator to determine.

THE CHAIRMAN: Failing to reach an agreement the union would then be at liberty to call a strike and that would not be called an illegal strike.

MR. BURT: There are some matters which the parties are unable to foresee; it is impossible for the two parties at the time of the signing of the agreement to foresee every possibility in the relationship between the parties during the collective agreement or the life of the collective agreement and matters have arisen, from time to time, which certainly were not foreseeable at the time of the signing of the agreement and there was no place and no way to resolve them.

THE CHAIRMAN: You cannot think of any way this could be done by reference.

MR. BURT: The arbitrator can only deal with a matter referred to in the agreement.

MR. JACKSON: In the matter of the janitors, Mr. Burt, was that a non-arbitrable situation?

MR. BURT: At the time the arbitrators met the parties nobody raised the question as to whether or not it was arbitrable even though it is included in Section 32 (2) of the Labour Relations Act; he is supposed to deal with that. If the company lost the next round they said, he, did not have jurisdiction anyway so we will take it to court and they proceeded to do that.

MR.JACKSON: Has that been decided now? Is it settled?

MR. BURT: Yes, unless the company appeals to the Supreme Court of Canada and I do not think they are going to do that.

MR. ELDON: The company has not gone to appeal. As far as we are concerned it is settled. We have the same type of grievance and the union arbitrator and the county judge said the company was wrong and then it was heard before another county judge and he said the company was right. Now how do you resolve these things if you do not have the right to strike? We should point out, too, and I am glad that Mr. Metzler is here, that page 10 of the Regulations you have the Arbitration section which says,

> "Every collective agreement shall
> "provide for the final and binding
> "settlement by Arbitration, without
> "stoppage of work, of all differences
> "between the parties arising from the
> "interpretation, application, administra-
> "tion or alleged violation of the agree-
> "ment, including any question as to
> "whether a matter is arbitrable."

So here are the regulations using that language and recognizing that there might be some type that is not arbitrable and yet the same regulations state, in those cases you do not have the right to strike.

MR. METZLER: Mr. Chairman, I would like to make an observation on the content of the section and it is more in the nature of a historical comment. When the Act was first drafted the requirement of the collective agreement providing for settlement by final, binding arbitration or otherwise of any

matter that arose in reference to its interpretation, administration or alleged violation there was no such thing as this expression included; whether or not a matter was arbitrable was in the original section. The reason it was inserted, if I may refer to it as a practical matter, was because of the fact that we found ourselves in the situation where appeals were being made to the Minister to appoint people, a single
4 arbitrator or Chairman of a Board of Arbitration and, as always, we have a procedure when such a request is made we notify the other party that this request has been made and what is their position in respect of it. We used to get back a statement on this matter that it is not arbitrable. Where is there a tribunal, then, which can give any direction or decision? The only decision that can be given by the Minister in terms of the collective agreement is to make the appointment of an arbitrator. He cannot exercise any higher judgment as to the nature of the matter or whether or not procedure has been followed. That is none of his business. His job is to appoint an arbitrator. It was to get over the hump of the settlement that this thing was hung up, by saying this is not arbitrable, and that clause was inserted in that particular section so it would, at least, give a resolution to the claim of the trade unions that this matter should proceed in accordance with the provisions of the arbitration clause.

MR. BURT: Then there is the case of Studebaker: I was quite surprised at the hearing when I did not see a prominent member present when we were defending their Act

and paying for it. However, they were not there. We were not even congratulated on a successful defence of the Act.

MR. MACAULAY: We will congratulate you now.

MR. BURT: Thank you, I will take that. I do not know how many cases the Deputy Minister can cite in respect of what he says. I think there would be very, very few.

MR. METZLER: There are none today because every matter has to go to arbitration.

MR. BURT: The facts are that they are not decided at the first hearing as to whether or not the matter is arbitrable and that is another road-block we run into because of the way it is set up now. Also, an umpire would come on the scene and the first thing he would be requested to do would be to determine whether or not the matter was arbitrable and then he would have to go away and consider it for three or four weeks and decide whether or not it was arbitrable and then come back and arbitrate the agreements or not arbitrate the agreements. While we think this part of the section is necessary, certainly, rather than making two steps of the procedure an umpire should make one because if you could see some of the bills these boys send in for a janitor being laid off work, they are pretty terrific. You would not want to have two steps at trying to settle this grievance. In writing our agreements we have not necessarily followed 32-2, although everybody on application to the Board can have it inserted in their agreement. We say

again this is a matter of our freedom and as far as we are concerned you come to the end of the road and there is a road-block and Management can go merrily on their way because they have won the grievance when there is no other course that the aggrieved employee or employees can pursue. We have had cases of having a dozen men fired for not keeping up production after having an agreement with the company for the previous year and what we set were exactly the same conditions for which the dozen men were discharged who refused to agree to the additional production. Under some conditions we take discharges to the umpire and, sometimes, if you are fortunate and you have sufficient evidence you can prove to an umpire that these men should not have been fired. Maybe they did not get out the company's production and they simply could have had a minor penalty. The effect in that particular instance I refer to, they put new men on the job and they did not get it out either and they were not fired. The umpire, quite often, is prepared to accept the testimony of Management because they seem to know more about production standards, or they think they do, than the guy working on the job and they are inclined to favour Management's point of view on production standards rather than the union. We used to take these cases before an umpire or an engineer. The engineer is a member of a firm of engineers and they get jobs from the big companies.

MR. YAREMKO: But they also have professional ethics like anyone else.

MR. BURT: Yes, Mr. Yaremko, I imagine they do but a test of their professional ethics should not be necessary as far as this Act is concerned. We can do without any of this and we would not need to test the professional ethics of these people.

MR. METZLER: Mr. Chairman, I agree with Mr. Burt. It is unfortunate if an umpire in dealing with a preliminary question as to whether a matter is arbitrable does not reserve the question and go on to hear the case at that particular time just like a court on an application for leave to appeal. At one time they used to hear it and take the time to determine but now they take it, they hear the evidence and then decide the matter and so leave is granted. I consider that would be proper procedure by an arbitrator.

MR. MacDONALD: Mr. Chairman, as long as we have to live with the Act is it not up to the Department to issue those instructions?

MR. METZLER: No, the Minister only has the right to make the appointments he has to make. He is not in there to supervise on, first of all, how the parties react to each other or, how they should proceed. You can get into some really peculiar situations. You may have a grievance procedure that calls for three or four steps under the terms of the collective agreement and you may have requested for the appointment of an arbitrator and Management comes back and says, We take the position this matter is not arbitrable because of the fact the grievance procedure itself has not been exhausted. How can anybody in the Department of Labour

not privy to the contract or what exists between employer and trade union, how can they be put into a position where they can assist the parties?

MR. MacDONALD: I can see how the Minister would be placed in a position of supervising but a routine problem as to whether or not a thing is arbitrable, he should be in a position to instruct them to proceed immediately and get the evidence in order to avoid two years' delay. That is routine.

MR. METZLER: That would require an experienced man who has had some experience in arbitration.

MR. ELDON: Our criticism is not directed against the arbitrators; our criticism is directed against the legislation which sets up a prohibition. The legislation itself says "including any question as to whether a matter is arbitrable". That language realizes there might be some things not arbitrable. In other words, there might be some things not in the agreement because the legislation restricts it and restricts us to what is in the agreement and a certain interpretation of the agreement might be considered a violation of the Act. Therefore, according to the legislation it is not in the agreement and you cannot arbitrate. Well, it sets up that prohibition and then it goes on to say: You are prohibited from arbitrating and also prohibited from striking to solve the issue. At this stage of the game it is the legislation that has to be changed, not the umpire. It contains that weakness and contains an alleged bias against

the unions.

MR. YAREMKO: Is it not correct that if the collective agreement stated if part of the collective agreement were on collective standards, that is a matter which would be arbitrable and then you could go to arbitration but your difficulty is caused because Management will not give you that in the collective agreement?

MR. BURT: That is one difficulty but, quite frankly, we do not believe a third party is qualified to deal with a production standard dispute. What we are asking for is on matters which the parties are considering whether or not they are arbitrable we feel we should have the right to strike a plant, close the operation down on those matters and we say that the production standard is one of them.

MR. YAREMKO: What you are in effect saying is that there are certain things which should not be in the collective agreement which should be, in effect, outside of the Labour Relations Act.

MR. BURT: No, not necessarily. I say there are certain things which should be included in the collective agreement and proper matters for discussion and all these steps of collective agreement but not by an umpire. We do not think they are qualified to deal with them and we have the support of Management on that.

THE CHAIRMAN: You do not think, then, it would be practicable to appeal to the courts?

MR. BURT: I think the further we stay away from the courts the better we are in labour relations and I

think that is the reason the Labour Relations Board was set up.

MR. YAREMKO: Are you suggesting, Mr. Burt, that the Studebaker Company would agree with your proposition here?

MR. BURT: On a production standard.

MR. YAREMKO: No, on this proposition?

MR. BURT: It is Management's ideal situation: You cannot arbitrate and you cannot strike. They would agree with my assertion that we should not be able to arbitrate production standards. I have not discussed this with Studebaker for a long time. I have the authority that the other big managements do not think we should arbitrate production standards and we do not have the right to do so in our agreements, as such; we have the right to arbitrate time study grievances and there is a difference. It is an ideal position for the company and they have proposed this throughout: They say, we do not think it is arbitrable but you cannot strike on it, either. We will make the determination of what is proper on production standards. We agree with the company that it is not arbitrable but we do say we should be able to take the company on on things on which we cannot arbitrate.

MR.YAREMKO: If you have the right to strike they might change their opinion and say this matter should be arbitrable.

MR. BURT: That is why I agree with Mr.Macaulay that it is important to get this information from the United

States because I am convinced the majority of cases are settled around the table and without an umpire.

MR. PERKINS: Mr. Burt, you say in Section 32(2) you object to a three-man Board. Can you tell us why?

MR. BURT: The three-man Board brings up the same problem as the Conciliation which is delayed. You can get one man in a certain place at a certain time much easier than three men and that is one reason for the delays in the Conciliation Board. When you complain to Mr. Metzler he will say the Labour man is not available.

MR. METZLER: Mr. Burt, you and I agree on that.

MR. BURT: Then the Management man is not available and then the Chairman is not available and when they come from three different parts of the province it is pretty hard to get them together on certain dates and the result is that arbitration disputes are delayed in getting before the Board. We do not agree with the point of view that three heads are better than one in coming to a conclusion because we say in the final analysis the Chairman makes the decision and he agrees with either one or the other so he is really making the decision. We are a little biased because for years and years our union has been accustomed to a one-man arbitrator. I can remember, in days gone by, before all these acts were convened we had an agreement with General Motors and Louis Fine was the umpire and sometimes we got mad at Louis but he developed great intuition and I would say he was the best qualified person to deal with the problems. In the

United States we have a man who was available to General Motors in Windsor and Oshawa and St. Catharines, in fact, wherever G. M. plants are set up and for a while he also took on the Ford job and then when the unions started to grow so big it got beyond him because he has quite a few responsibilities of his own but we found that a very, very acceptable sort of formula.

We point out on page 23 something else we think important. When we had Louis Fine, at least we got consistent decisions. If we were wrong in Oshawa then we knew we would be wrong in Windsor so we know just where we stand. If you will read at the bottom of page 23 and the top of page 24 you will see where we point out where we get four different decisions from four different judges. When you consider that judges are so able to sift evidence in an impartial manner it is difficult to see how they would be able to get four different decisions.

MR. MACAULAY: Because they were four different men.

MR. BURT: Very well, but then on a three-man Board you can have three different decisions although in this case it is one Chairman and two members of the Board. We believe that a single arbitrator cuts down time and also comes up with the same answer and it is cheap.

MR. MACAULAY: I would be interested in having some specific evidence from you in relation to that because I tend towards ---.

MR. BURT: Do you mean as to cost?

MR. MACAULAY: Yes, I would like to have something specific because several years ago I felt inclined there should be one-man arbitration boards and I did not use as one of the reasons the cost because I had no evidence of my own and I would be accommodated if you could get it for me.

MR. BURT: The cost of a one-man board versus a three-man board?

MR. MACAULAY: No, just the cost of one man.

MR. MacDONALD: This question of the relation of cost has come before the Committee before and I raised the question if it was part of the Act whether the cost would not be run up because of indiscriminate use and at that time it was agreed that the Committee would examine it. It was suggested that perhaps it would be open to abuse by unions who would be arbitrating everything and the cost would mount unduly. Mr. Burt, have you any comments on that particular aspect of cost of conciliation?

MR.BURT: We used to have it that way. We never paid Louis Fine for being our arbitrator. In all honesty I cannot see that it would be so. I think the Department would agree the call on Mr. Fine's services would be less than what the case load is now in the same plants. Maybe there are more grievances now; maybe the machinery is tightened to a point where we do not settle as many around the bargaining table as we should settle or there are more people involved.

However, the case load at the present time in our local unions is considerable. It is much heavier than in the same unions in the United States. Our unions in the same companies in the United States have a single paid arbitrator per corporation; one man in G. M. -- and the parties can get rid of him if they want to -- one man in Chrysler and one in Ford and they jointly pay him his salary.

MR.MacDONALD: Do you mean that union and Management jointly paid his salary?

MR. BURT: Union and Management pay the arbitrator and he does nothing else.

MR. MacDONALD: But then he is on the staff--?

MR. BURT: He maintains his own office. In G. M. he is dealing with 130 plants and 375,000 people. He is away behind right now. The case load there is heavy. However, proportionately speaking, it is heavier here. We are rather jealous of our arbitration position. We lose so many cases we know there is something wrong and we have established in many of our unions "screening Committees" so that it takes the pressure off a particular plant. The screening Committee are all members of other plants. They go over the cases and sift them and make their recommendations accordingly. In some places that is not too successful. I do not think you will find an appreciable difference if the cost is borne by the Government, where it should be. We say this arbitration section is compulsory. We say it is the only way you can do it and we have had arbitration

clauses since 1937 in our G. M. agreement. We say it should be paid by the Government. It is a public service that is being rendered and it should be charged to the Department of Labour and not to the parties. We must go through this procedure. And that is our point of view.

MR. SIREN: May I suggest, Mr. MacDonald, I am inclined to think this to be true: At least, where the arbitration load is, shall I say, on a fee for service basis then you pay by the case instead of having either a governmental employee or a government-paid employee or a mutually agree umpire where the case load in itself does not add to the cost you will find the fee for service basis would probably have a higher case load than ever.

THE CHAIRMAN: Are you not running into the problem if the umpire gives a decision that is unfavourable to the union and if he is a Government man is not the Government likely to get into trouble as showing favouritism?

6 MR. BURT: Mr. Chairman, I do not see why. The same thing happens in the Labour Relations Board. That Board is made up of Management and Labour and the Chairman is in a fine position if they go against each other because he is paid by the Government. The Conciliation Boards are paid by the Government.

THE CHAIRMAN: Gentlemen, shall we proceed with Section 32 (4)?

MR. PERKINS: Mr. Burt, are you in favour of the publication of the arbitration award?

MR. BURT: Yes, we are. We would like somebody to edit the work and let us have it. We would like to see the arbitration awards published.

THE CHAIRMAN: Have you discussed it with law publishers?

MR. BURT: No, Mr. Chairman, we have not.

THE CHAIRMAN: They might be glad to do that.

MR. METZLER: Mr. Chairman, I would just like to say, in reference to Mr. Fine, I am glad to know he was so highly thought of. One of your difficulties when you make a comparison with the United States is that over there you have General Motors with 130 plants and 375,000 people and they are in a position to keep a full-time arbitrator with a staff to take care of the situation but the amount of that work in this country is not that great and we would find ourselves in trouble. For instance, if we set out to replace Mr. Fine and we were to say he is going to be on a permanent basis, you would be in trouble.

MR.MACAULAY: Mr. Chairman, I do not think that Mr. Burt is advocating that. He is only saying that whoever is selected be paid for that case.

MR. METZLER: You would keep it on a case basis.

MR. MACAULAY: Once you know what your cost problem is.

MR. BURT: If one umpire can deal with 375,000 people you would not need too many of them here to handle the

whole problem.

MR. MacDONALD: Mr. Burt, in Section 32 (4) you mention the right to appeal the result of the arbitration but you testified earlier you have never appealed an arbitrator's decision.

MR. BURT: To my recollection we have never appealed one or called a wild-cat strike because of the decision of the umpire. Certainly not in years gone by. We have had companies refuse to put the arbitration awards into effect but we have not had trouble on account of that.

MR. MacDONALD: This is something the Committee has to seriously consider because every management brief has said there should be the right to appeal to the courts of the land.

MR. BURT: To that I say, and I think I have the backing of all of Labour in the land, we will completely lose confidence in the arbitration process. There would be no limit to the litigation.

MR. MACAULAY: And it would not solve your problem. By the time you decide who is right, everybody is wrong. There are people who have been out of work; the flames have been fanned; and what good does it do to be right?

THE CHAIRMAN: Very well, gentlemen, let us go on with 32 (6).

MR. BURT: Mr. Chairman, this is a resolution passed at the Canadian District Council at Port Elgin in June

of this year in which they propose that the whole matter of arbitration is a serious one and that there should be an investigation. You fellows are set up to do this job. When this resolution was passed you were not in operation but they felt that this should be a separate part of an investigation on the whole matter of arbitration.

MR. MACAULAY: Maybe we will be able to satisfy them.

MR. BURT: Particularly as to personnel and so on. We are not satisfied with county judges. I have already expressed that opinion. I have a great deal of respect for the law and the judges but not mixed up with labour relations.

MR. MACAULAY: Mind you, Mr. Burt, there have been others who have presented briefs from the part of organized labour who have expressed a contrary opinion.

MR. BURT: I have read about it in the papers and I would say that our family is big enough for a difference of opinion.

MR. MACAULAY: As long as you do not expect us to straddle the fence.

MR. BURT: That is the worst place a legislator could be placed.

THE CHAIRMAN: Gentlemen, Section 41 (3). Would you say something about that, Mr. Burt, or did you, before?

MR. BURT: This is hooked up with petitions or

applications where nobody has to show any responsibility except the union.

MR. YAREMKO: Who would he pay that dollar to?

MR. BURT: I do not know but we are pressing that nobody should pay the dollar. We say, if a petition can come in without a bunch of productions then we who are a recognized group, considered to be a trade union, should be able to do the same thing. We say that if they sign the cards and they are proven to be signed, that is enough. As I said at the last meeting, we are not in a real valid position in the present set-up to do much about the payment of the dollar but we feel that some other tests, some kind of test should be made as to the validity of the petitioners and of the people who make a request for decertification. Although we cannot prove it we know that these people are encouraged and prompted and told to do these things by the company. And there is the question my friend, Mr. Eldon, has raised countless times before the Board when these fellows show up with high-priced legal counsel, and is there any other kind, ---?

MR. MACAULAY: There are other kinds and I am beginning to get a little cross with your remark.

MR. BURT: They show up with ambitious young fellows and well-known lawyers and nobody can determine from where he gets his fees. There should be a greater scrutiny of these petitioners.

THE CHAIRMAN: Why should not anyone say what

they like?

MR. BURT: A majority should have some right. When we show up before a Board with 65 percent and a petitioner shows up with 65 percent maybe somebody's mind has been changed in the meantime.

THE CHAIRMAN: Supposing you have a secret vote, would not all your troubles be resolved?

MR. BURT: How many times do you have to prove a majority?

THE CHAIRMAN: Every time.

MR. BURT: How many times in the same case; three or four times it will give a company lots of chance to turn the heat on.

THE CHAIRMAN: Why should there not be one secret vote before certification?

MR. BURT: For the very reason I have expressed. We are not opposed to democratic vote. We say, in the present situation, when we are required to get a guy to pay a dollar and sign a card and if we have more than 55 percent it should be proof in any democratic situation. I think it would even be proof in some of the Iron Curtain countries.

THE CHAIRMAN: Why not have a secret vote?

MR. SIREN: I do not think votes in themselves are always a panacea to our problems.

MR. ELDON: When we had it before without the dollar the Corporation lawyers said, anybody will sign a card if it does not cost them anything and the corporation

lawyers argued away about that and won that point and we thought if a guy pays a dollar, that is it but the next thing the corporation lawyer said, how do we know he paid the dollar and not the organizer. It was always carried one step further back. Our objection is that the petitioner can come before the Board without any down payment and have the same rights before the Board as we have. As Mr. Burt said, how many times do we have to prove a majority? When we put in an application to the Board we have to prove our set-up on the day the Board receives our application. I was at the Board last week and put in 88 cards and because of lay-off I only had 58 good cards. When you organize a plant you organize on the day you make the application and there is no provision made for lay-off. The Board will only take the cards of the employees who are there on the day we make our application. We might have 70 percent at the time we make our cards but by the time we get to the board we only have 40 percent. There is no allowance made for lay-off. We think it is too easy for them. After all,the regulations were set up to eliminate strife and strike over union recognition.

We think, basically, the Act is set up to allow for too easy decertification of the bargaining unit.

7 Having regard to that fact we think, after we have organized the people and fulfilled the requirements that anybody wishing to decertify should be required to meet even greater requirements than we have had. At the present time it is

easy to go around to get up a petition and have somebody sign it.

MR.YAREMKO: Are the two things really comparable? It has given me a lot of thought. You have a plant which is unorganized; very often, do you not have this situation: Experienced men are brought in by the union into that plant to organize them.

MR. BURT: How do you mean inside the plant? You would never get inside the plant.

MR. YAREMKO: I am not talking about inside the plant but in the area and you set up a local and send word around that you are charging a dollar for the privilege of having you make an application for certification. They pay a dollar and become members of the union; members of an organization. However, the petitioners do not want to belong to an organization, evidently, they just want to carry on on an individual basis. So, is it fair to compare an organized group with a so-called unorganized group that just wants to give an expression of their opinion?

MR. BURT: Supposing you had that in your provincial elections and after you had proven your majority a group in your constituency would come along with a petition and get a majority on that and say, you are out; you are through. I think, Mr. Yaremko, you will admit you have an organization and before an election your organizers move into your constituency and you try to get all the votes you can. You whack away at the voters and at election time you have a majority and you do not have to prove it again for

another four years. Do not forget that we start off with a majority so you are only talking about the people over the 55 percent because that is the only way the Board will certify you without a vote. Then you have a dissident minority and is it not true some people are giving too much leeway to a minority group because ten months after we sign the agremment with that company this group can organize against us. They can do it all year. At the end of ten months they can come along with an application for certification. You might say by that time you have established yourself in the plant and they haven't a chance. In most cases, you do not hear of that group anymore because they just do not exist anymore because they are all participating in their union functions in the plant which is the way it should be. I think the comparison is a good one.

MR. YAREMKO: You are, again, making a comparison with a democratic process of legislation. At the time that is going on I have my organization organizing on my behalf, Mr. MacDonald has his organization who will organize on his behalf and someone else has an organization who will organize on his behalf and everybody is organized for that one purpose and it is expected that they be organized but in this instance this other group is not organized.

MR. BURT: Well, why do they not organize?

MR. YAREMKO: The only way they can organize is to sign their name.

MR. MacDONALD: They can organize an alternative

union.

MR. SIREN: Mr. Chairman, may I make a suggestion? I do not know how often you gentlemen have been at the Board; I have spent some time there. It is not just a dissident group opposed to something; it is not just an inactive force, in most cases they are opposed to the union applying for certification and they themselves are applying for certification as a company union; purely and simply a company union. It is purely and simply opposition to the Labour movement or the union in which the application is concerned and usually they are represented by counsel who do that almost every day that the Board is sitting. They are there every day from certain areas. I think the members of the Committee are as well aware of the counsel as I am. There are certain people who specialize in that field and it is not by accident that they are there because someone sincerely is opposed to the union being certified for that particular plant. They are there because they are an organized group but the responsibility is only place on the union to get the cards signed and countersigned; to get them signed twice. They are not just opposed as a matter of principle. On the other hand, the application card has to be signed twice, there has to be a payment of a dollar and it has to be certified that someone has collected the money and while that process is, in itself, legitimate, the fact is that the people of this group can come in and seek some type of protection without going through the process which

we have had to do.

MR. MacDONALD: I would like to say this in answer to Mr. Yaremko: In some instances not applying for an alternative bargaining unit is just good procedure in not establishing two unions but in this instance they are so small a minority they are not even going through the motions of trying to establish an alternative union.

MR. SIREN: Although we may have our suspicions as to where that time of nuisance originated, you have to prove that the employer was involved in this process. You have to prove that it was, instigated, financed and encouraged by the employer and you have one devil of a time proving it was financed by the employer, in case you have not had the experience.

MR. YAREMKO: Mr. Chairman, may I make one last observation: I imagine there would have been many more members of the legislature decertified if there had been union votes.

MR. SIREN: The Federal Government had been in power for quite a while and this Government has been in power for quite a while, too.

MR. YAREMKO: Decertification does take place.

MR. BURT: If, as a legislator, you were to see all of the people in your constituency and collect a dollar from 55 percent of your constituency and then get them to sign a card, then, if you will come down here we will agree you are elected.

THE CHAIRMAN: Gentlemen, shall we proceed with Section 41 (3)? No discussion, then Section 44 (a).

MR. MacDONALD: Mr. Chairman, Section 44 (a) is one we have had many times before this Committee.

MR.BURT: We have a good example of where a company changed by putting 1956 to its name and then no union existed. We happened to have a union in the plant for many, many years. As a result of that we had to organize again and apply for certification and, in the meantime, the company posted a notice on the Board telling the employees they were no longer employees of the company; the company had changed hands and if they would apply at the Employment Office on such and such a date they would be hired as new employees. We had one fellow there who had 60 years seniority and he was going to be hired as a new employee. Well, he retired. There were many employees who had many years of employment and pension credits built up. We applied to the Quebec Labour Relations Board and were certified again and since that time we have arrived at an agreement with the Management and the union is back in business. The union was able to work that out in that particular industry.

THE CHAIRMAN: Gentlemen, shall we go on to Section 49 (1)?

MR. BURT: Section 49 (1) would not be necessary if our proposals are adopted.

THE CHAIRMAN: Section 49 (2).

MR. BURT: And likewise with that section. That is dealing with the Conciliation Boards.

THE CHAIRMAN: Has anyone anymore questions?

MR. PERKINS: Mr. Chairman, before lunch Mr. Burt mentioned the possibility of some industries being declared national industries.

MR. BURT: Yes.

MR. PERKINS: What would happen if the automobile industry were declared a national industry? Would you then come under the Federal Act instead of the Ontario Act in applying for conciliation?

MR. BURT: I think we would. I was speaking to one of the officers of our Federation at the last application of the Packing House Workers. They have big plants in more than one province. Ontario was the one that held back as far as getting an agreement was concerned to proceed on a national basis. This question has been raised as to proceeding province by province and the difficulty of having a Board set up in Saskatchewan, Alberta, Ontario, and so on and getting different judgments and getting different kinds of reports.

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(54)

MR. MacDONALD: That was back at the time when Ontario had less confidence in the Federal Government. It may now be different.

MR. BURT: It was back at the time when the packers wanted different terms on a national basis. Many of the provinces would be prepared to give up their jurisdiction.

Bargaining would be done in a central place and would be done on behalf of everybody concerned. In that way the people in the other provinces, where there are small plants located, get the opportunity to participate in the bargaining. As it is now, they do not. We have a master agreement in General Motors but it would not cover the parts plants way out in British Columbia but after you have settled in Ontario then you cannot go to British Columbia and agree to something more or something different so, in effect, what you have is an imposition on those employees of what the employees accepted in the other provinces.

THE CHAIRMAN: Mr. Burt, would you mind if I ask you some general questions? There has been a lot said about picketing: Some unions think it improper if employees want to return to a plant, employees wishing to work while the strike is in progress, they are not permitted to cross the picket line.

MR. BURT: Of course, they are not prevented from doing that legally but when employees vote on a strike action and have taken strike action accordingly then the union has completed the process of the law and strike-breaking should be declared illegal and you would not have this mumble-jumble of the law of picketing and injunction.

THE CHAIRMAN: But what about the older employees who want to work?

MR. BURT: The older employees who want to do that have to bow to a majority opinion.

MR. SIREN: In many cases it is not older employees. In any case any differences of opinion during a strike are hammered out as in any other democratic process, by a union meeting. The unionist who goes on strike has as much right to protect his job as Management has to protect its property.

THE CHAIRMAN: Many who have appeared before us have said that unions should be permitted to be sued for committing damage. What is your comment on that?

MR. BURT: I would say no and for the same reason that we are opposed to appealing the decision to the court. For the same reason that Mr. Macaulay said: You are going to lose sight of the whole thing in the jumble of court procedure. The companies we deal with are quite capable of suing unions even if they do not have cause and keeping us before the court and we think that is really putting a club in the hands of wealthy employers to keep you before the courts. You are dealing here with human relations; I know there are disputes in the family of Management with one employer suing another but that is not the same thing.

THE CHAIRMAN: Mr. Burt, a great deal has been said of the right to work in the Rand formula, or whoever it was, that a person should pay dues to a union even if they do not belong.

MR. BURT: I think that is included in the Chamber of Commerce brief.

THE CHAIRMAN: That has been included in several

of them.

MR. BURT: In the Canadian Manufacturers brief and in the briefs of other organizations who hold that point of view and who say the right to work laws are being passed in the United States. I do not think it is going to create any harmonious situation in the United States and, anyway, it is a most unfair law and goes against the rights of the majority. They tell these people that the government of the plant, which has been established by law, is just being sabotaged. That they are being denied their rights. And the people who are gullible enough to swallow that stuff believe they have a right to go into the plant without participating in the union; without taking their share of responsibility and they think they can go in there and get all the rights of collective bargaining. In every organization there are free riders. We had them for years. Mr. Justice Rand made that very clear; he excepted them from joining the organization but he did make it clear that each employee had a responsibility to contribute an amount of a month's dues every month. To have loose people running around in a plant is not fair to a union that is supposed to take its responsibilities within the confines of the agreement. During the time it was included in the Taft-Hartley Act it required a vote before a union could approach Management and ask for union security and check-off. They took that condition out of the Taft-Hartley Act because 90 percent resulted in a maintenance of this condition.

MR. YAREMKO: The specific point I have

in mind: In a closed or union shop so long as a man pays his dues or pays something equivalent of dues, $2, $5, whatever it may be, he would not lose his job because he is not a member in good status of the union.

MR. BURT: That is the only point you have in connection with the item of freedom of right to work. I want to continue what I have to say about this before this Committee because other people have taken advantage of this Committee as a sounding Board. These right to work are proposed laws by Manufacturers Association and Chambers of Commerce and to my knowledge you do not have a brief from the poor downtrodden guy.

THE CHAIRMAN: We have briefs from the Seventh Day Adventist.

MR. BURT: They are a religious organization. They are speaking of religious views. These laws are to champion an individual's rights to come into a plant and have complete freedom and not join anything.

THE CHAIRMAN: Let me remind you, Mr. Burt, that Professor Wood told us there are a number of states who have right to work legislation and he said the trend was towards that kind of legislation in the United States.

MR. BURT: I am glad to say that in Canada, in some respects, in a great many respects we are much more enlightened than our relatives south of the border. I do know this: If those laws are enacted we will be back to preindustrial union days; We will be back to 1936. You will

have the same kind of situation.

MR. MacDONALD: I do not think that Professor Wood took note of this trend with approval.

MR. BURT: Mr. Yaremko, the question you raised regarding expulsion from the plant. During the course of our negotiations, when we sit down privately with Management, to my knowledge they have never yet raised the question of whether we have the right to expel someone. They raise it here for the public but they do not raise it in negotiation in our particular union. And I agree, my personal opinion, I do not think a man should lose his job because he goes and spouts off about the U.A.W. I think that would be unfair. We do not have any agreement with any management nor is there in our Constitution a link between those two and to my knowledge we have not yet expelled anyone from the union for that reason.

THE CHAIRMAN: But you do have the power to expel?

MR. BURT: Yes, we have the right to expel but we now have in our union, as you know, not only the right of appeal from a subordinate body, a local union, but we also have the right of appeal from an international union right through to the very top level to a body called the Public Review Board established at our Convention and the personnel of that Board is just as good as your Supreme Court and any member of the union can make an appeal to that Board. So far we have not had any appeals that have gone to the Public Review Board on the problem you have raised.

MR. YAREMKO: If the appeal goes to this Board would the employee, in the meantime, be working or would he be out of work waiting until the decision of the Board was rendered?

MR. BURT: We have never had anybody fired.

MR. SIREN: We have never had an instance.

MR. BURT: We have never had an instance I do not know how anybody could fail to pay his dues because there is a plant check-off and he has no say. I do not think we could name an instance.

MR. YAREMKO: We have heard a great deal of the strength and power of Management having the right to hire and fire and that that is one of the reasons an employee has-itates to express an opinion, viz a viz, because of Management having that right to fire, and I was glad to hear you say a man should have the right to express his opinion as to his own union without having a club of expulsion hanging over his head.

MR. BURT: I assure you he has that right.

9 MR. SIREN: You should attend our membership meetings sometime.

MR. BURT: You have other organizations in Canada who do not have as broad an area of that freedom as the U.E.W. and I refer you to your professional organizations who are pretty strict. If a doctor or a lawyer moves out of line the least little bit they are called on the carpet. I understand the Ontario Law Association could expel a lawyer

and keep him from practising in Ontario.

MR. YAREMKO: Yes.

MR. BURT: A lawyer can be expelled under the rules of the Bar Association with no appeal.

MR. SIREN: And he has lost his employment and there is no appeal.

THE CHAIRMAN: He cannot lose his profession because he is disloyal to his profession by saying that lawyers are a bunch of robbers. He has to steal somebody's money or do something like that.

MR. BURT: Unfortunately, there have been a few cases where people have absconded with funds, not many, but there have been one or two but after all we are dealing with the people the employers hire. We have not expelled them, either, in the same sense.

THE CHAIRMAN: But there are unions who might have done.

There is a letter here from the Canadian Name Plate.

MR. BURT: Are the Canadian Name Plate people represented here? Mr. Chairman, I would like to say if the Canadian Name Plate people want to be represented here we would be glad to appear with them if it is going to serve any good purpose.

MR. MacDONALD: The Marquis of Queensbury rules.

MR.BURT: We would be quite prepared to go along with whatever your Committee would recommend. A strike has been going on since 1956. Mr. Chairman, I would like to make

this one last comment: You may, or may not agree that the U.A.W. is the largest union in Canada but as far as power is concerned the employer still has much more power economically and, I would say, politically than the trade union in this country. We have made marvellous strides and I think it is quite an achievement under the circumstances.

THE CHAIRMAN: May I thank you, very much, for appearing before us. I want to compliment you on your very able brief that you have prepared and I might say it will help us a great deal in our deliberation.

MR. BURT: Mr. Chairman, thank you for the opportunity of appearing. I think this proves again our way of life is the proper one.

MR. PERKINS: Mr. Chairman, we have with us today Mr. Macaulay Dillon. I do not know whether he wishes to make any statement at this time.

MR. MACAULAY DILLON, Q.C.: Mr. Chairman, I would just like to say that it was intimated to me that the Committee would like to ask me some question and there is one thing that I would like to discuss before the Committee but it is getting on to four o'clock.

MR. YAREMKO: I think we should suit Mr. Dillon's convenience. He has been here waiting all day. I think we should do whatever he wishes.

MR. DILLON: I would prefer to come another day. While what I have to say is not of great importance it will take me about half an hour to say what I wish to say about conciliation and after that I would answer any question the

Committee would like to ask me, if I know the answers.

THE CHAIRMAN: Thank you, Mr. Dillon, the secretary will inform you.

MR. DILLON: Thank you, Mr. Chairman, I will appear before you another day.

THE CHAIRMAN: Mr. Burt, would you like to hear what these people have to say?

MR. BURT: We would be glad to.

MR. SIREN: We would, very much.

THE CHAIRMAN: We will let you know. I am instructing the secretary to file the letter from the Canadian Name Plate. The meeting is adjourned.

---Whereupon the Committee adjourned at 3.45 p.m., to resume at 11.00 a.m., Wednesday, December 4, 1957).

LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1, Parliament Buildings,
Queen's Park, Toronto, Ontario

Wednesday,
December 4, 1957

JAMES A. MALONEY	Chairman
HAROLD PERKINS	Secretary
GEORGE T. WALSH, Q.C.	Committee Counsel
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	J.W. Spooner
	Albert Wren
	John Yaremko
	Robert Macaulay

APPEARANCES:

Mr. J.P. Metzler	Deputy Minister of Labour
Prof. H.P. Logan	

NATIONAL UNION OF PUBLIC EMPLOYEES
ONTARIO FEDERATION OF PUBLIC EMPLOYEES

W.M. Buss	President of National Union of Public Employees.
R.P. Rintoul	National Director of National Union of Public Employees
J.F. Raysbrook	President, Ontario Federation of Public Employees
K. Couch	Director of Ontario Federation of Public Employees

G. Morgan	A. Groulx
W. Hilts	F. Taylor
E. Priestley	W. Action
O. Smith	Hugh Rose
O. Dowdy	

THE UNITED PACKING HOUSE WORKERS OF AMERICA

S.S. Hughes	Assistant Director
John Lenglet	Research Director

HAMILTON AND DISTRICT LABOUR COUNCIL

R.V. Gisborn	Vice-President
Stewart Cooke	Secretary
W. Foley	Treasurer

---Mr. Raymond M. Myers, Acting Chairman.

MR. PERKINS: Mr. Chairman, this morning we have the National Union of Public Employees and the Ontario Federation of Public Employees, with their representatives, and a number of delegates from a number of cities in Ontario. Copies of the brief are in the hands of the Committee. I believe the National Union will present their brief in conjunction with the Ontario brief.

THE CHAIRMAN: The way we have been proceeding is for the brief to be read to us and then we go over it page by page and discuss it. We will proceed, then, with the brief of the National Union of Public Employees, and if you prefer to sit while you present the brief, you may do so.

MR. RINTOUL: Thank you, Mr. Chairman. This brief is being presented on behalf of the National Union of Public Employees and the Ontario Federation of Public Employees.

---Mr. Rintoul reads brief.

THE CHAIRMAN: Has any member of the Committee any comment to make?

MR. RINTOUL: I have also a supplement, a

supplementary brief arising out of some of the discussions that have taken place before this Committee.

---Mr. Rintoul reads supplementary brief down to page 2 ending with the words:

"... and the new Toronto Incinerator Board, who "have also passed by-laws."

I should mention here that two or three days ago we were faced with another by-law after organizing employees of Swansea, we were notifed by the Labour Relations Board that a by-law had been passed last January and it has affected six employees, they could not and did not receive certification. On top of that, three employees were dismissed, in our opinion for no other reason than union activities, and this case we are endeavouring to deal with at the present time.

---Mr. Rintoul reads brief to the end.

Then I would go on to the appendices -- could we not take these as read? It speaks for itself.

THE CHAIRMAN: Any objection to that?

MR. MacDONALD: That has been our normal procedure.

THE CHAIRMAN: All right, we will do that. You have another brief, have you?

MR. RAYSBROOK: It is just a duplication.

THE CHAIRMAN: There is no point in reading it?

MR. RAYSBROOK: No.

THE CHAIRMAN: We will take that as read.

MR. PERKINS: There has been submitted s resolution

from the Toronto Municipal Employees Association:

"BE IT RESOLVED that local 79, National Union "of Public Employees, urgently request the "Government of the Province of Ontario to "delete Section 78 from the Labour Relations "Act."

THE CHAIRMAN: Shall we now consider the brief page by page? Page 1? Page 2?

MR. REAUME: I was going to say it is rather awkward to find out where to ask these questions.

THE CHAIRMAN: You cannot do it, but there are some specific statements made here and there. Let us go through it page by page and then we can ask questions generally. Page 3? Page 4? Page 5?

MR. MacDONALD: Mr. Chairman, there is one question I would like to ask arising out of the quotation at the bottom of the page. As far as I am concerned, the arguments in this brief are not only conclusive, but unanswerable, but the one excuse or explanation that has been given, even when it is argued as the Minister has on many occasions, that he advises the municipalities not to avail themselves of this, the one excuse or argument used is that the Provincial Government has no right to impose its will on duly, democratically elected representatives of the people at the municipal level. Then another fact that is touched on in this quotation, it is sometimes argued that trade unionism and collective bargaining, admirable institutions though they may be in private industry, are inappropriate when the

employer is a politically responsible body. I wonder if you would care to comment on that more, because as far as I know, this is the only argument we ever hear opposed; namely, that there is no right on the part of the one level of government to impose its will on the other level of government if they do not want to have the union.

MR. RINTOUL: I would say it is being done every day, whether it is being done through the Labour Relations Act or other forms of government service, that these politically responsible bodies are doing it every day in one form or another. Now, I do not think this could have any weight to it, that the Province sets down to a minor government as to what they are doing in relation to their employees. They are doing it in every other form in their operation in the Province -- in many cases, I should say -- and we see no reason in the world why it should not apply here. In our thinking, this should be covering every employee in the Province of Ontario, and, therefore, just because the City is a minor government politically run by people who are elected into office and who take that away from these employees, we think that is absolutely unfair in every way, shape and form. We do not see any reason why they should have an out under the Act that a private employer in the Province does not have.

MR. REAUME: Is it not also a fact that you can agree with one council on terms of an agreement, a contract that is fair to all parties concerned, and that council will be out of power at the end of the year and the other

council passes a by-law to come under the Act?

MR. RINTOUL: That is correct.

MR. REAUME: I have not really heard any arguments yet that are worth anything as to why we should keep Section 78 in the Act. I wonder if the Department might tell us if there are any valid reasons why?

MR. METZLER: Mr. Reaume, I do not think I am in a position to make any comment. After all, this is a question of policy and we have to leave that up to the political heads of the government to set the policy.

MR. REAUME: I do not want to ask a loaded question, but in view of the statements that have been made in the House by the Head of the Department, why do we worry any more about this section of the Act?

MR. MacDONALD: Because it is still there, that is why.

THE CHAIRMAN: Well, let us get on.

MR. RUSS: Would it not be advisable that the municipality take some alternative legislation to offset Section 78?

MR. WREN: Well, tell me this: do you agree, supposing Section 78 were repealed, some other people having to do with organization of municipal and other public service employees suggested that they would agree to compulsory arbitration if the section were removed. Does your organization agree with that?

MR. RINTOUL: No.

THE CHAIRMAN: Well then, is that not an argument

for section 78, the very fact that these public utilities of the City will cease to operate?

MR. RINTOUL: Well, in the supplementary brief here and the appendices, it will show that where the public employees have the same rights under the Labour Relations Act of the respective province as any other employees to be organized and the municipality sits down with them and concludes a contract, you will find there have been less civic disturbances in those provinces than in the Province of Ontario. I can truthfully say that the average civic employee organization, though they wish to strike the same as any other group wishes that right, they do not want to be placed in the position, and again you should go back to other matters pertaining to particular cities whether they should be forced to accept anything through a compulsory arbitration board. We would be absolutely opposed to it as far as our organization is concerned. We think we should have the same rights again not to be bound by an arbitration board, a binding arbitration board.

MR. WREN: It is one of the great fears -- I do not like Section 78, but one of the oppositions we find from municipal people, elected municipal people, is that if this section were removed, our hospitals and other important institutions were fully unionized, it would seriously cripple the essential services of the municipality. Some mayors I have talked with feel, as the hospital unions have already said, they would accept compulsory arbitration, they might look more favourably upon it.

THE CHAIRMAN: Would it be possible for you to impose any wage rate the union wanted on the municipality? An employer is faced with non-production of his product which does not affect the public, but supposing the civic employees in, say, garbage collection, they could impose whatever wage rate they wanted.

MR. JACKSON: I was wondering if you would object to Section 78 being deleted with certain essential services being made to continue? I do not mean taking away the rig t of edconomic action; I mean the essential services continuing? That could be, perhaps, in some other part of the Act and then delete section 78; do you have any objections to that?

MR. FUSS: I think in the past wherever a strike has occurred that the municipal employees have gone along with the idea of carrying on essential services, but what we find at the present time is that there are elected representatives to the municipal government who are employers of labour themselves and do not subscribe to the trade union movement.

MR. WREN: I know mayors who are trade unionists who favour retention of Section 78.

MR. FUSS: We also have opposition to that too and it carries the screw into the municipal government. There are other features in connection with elected representatives, the responsibility is not pressed upon them, it is merely giving them a right to do something and whether it is right or wrong they do it.

MR. JACKSON: You object to the proposition I mentioned?

MR. FUSS: Yes, we do.

MR. YAREMKO: The remark was made earlier that in the other provinces where Section 78 does not exist, there appears to be less industrial disputes than in Ontario, and that does not seem to be borne out by the record because if you look at the Appendix Table B you will find strikes in municipal government, public utilities, Ontario, since 1950, 34,715 man working days. If you subtract from 34,715 the figure given on page 7 of 5,378 which were strikes by union recommendation, you are left with a figure of 29,337 loss of man working days for strikes other than for union recognition.

MR. RINTOUL: That is so.

MR. YAREMKO: The fact is on Table C you have loss of man working days in all other provinces of 9,995, so there is still in Ontario 29,337 man working days as against 9,995 for all the rest of Canada involving strikes not for union recognition. It would appear Section 78 has no bearing whatsoever; if Section 78 had not existed during this period there is no indication that there would have been any difference in those figures.

MR. RINTOUL: Well, Mr. Chairman, may I qualify this? When this was put together this information that we have here was not before us; we got that from the latest strikes and lockouts in Canada, which was not available when we put this in. Now, we do not say on this particular

page that all of the strikes appearing, the nine listed here, was not because of union recognition, we quoted the union recognition in our original brief but we do not say that these -- this page does not take in, in many instances, union recognition. I believe the Department in Ontario could give us that information.

MR. YAREMKO: Do you mean by that that this figure of 5,378 is perhaps not an accurate figure?

MR. RINTOUL: It was accurate and is still accurate at the time we prepared this brief. This information was not before us, and I am saying that out of the twenty-three here you will find quite a few more on top of those. This information we have on the first brief does point to union recognition.

MR. REAUME: I think on that one point, you would find it awfully hard in a small place where you have only fifteen people working to make a strike threat; would they not bring in what is known as scabs and things of that sort?

MR. RINTOUL: That is right, there are some places where even through the Department we cannot get the information because of the by-laws being passed months before anything ever took place, such as the one in Swansea that I referred to. The by-law was passed in January, 1957, and the employees did not even know there was such a by-law, and when the certification application was made for the employees involved the Department of Labour just sent us the information, a photostatic copy of it, advising us that the certification just did not apply.

THE CHAIRMAN: Do the laws in the other provinces provide for the maintenance of essential services?

MR. RINTOUL: No.

THE CHAIRMAN: They are on the same basis as everyone else?

MR. RINTOUL: Yes.

MR. BUSS: We have municipalities now where there are a few employees engaged, as they refer to them, as permanent, and from day to day they apply to the Unemployment Bureau for employees, maybe four or five or six. It is quite easy to replace a small group immediately and the solution is pickets and so forth and interruption of services which, of necessity, has to occur after that.

MR. MACAULAY: A moment ago you made some reference to essential services. Can you tell us what you consider to be the services which are included in organizations belonging to your group, what groups you consider and what proportion of that group would be considered to be essential in the event of a strike?

MR. BUSS: In other words, you are asking for what we would consider as essential services?

MR. MACAULAY: Yes, and presumably you cannot consider a whole group to be essential.

MR. BUSS: The seasons would be taken into account in some cases as to what we would suggest would be essential services -- collection of garbage today at this time of the year where it is frozen and so forth would not be too much of a detriment or it would be lying on the

roads without disease and so forth. In hot weather it would be classified as essential, it would be detrimental to the public from the standpoint of disease and so forth.

MR. MACAULAY: That is one. What else is there? What about water?

MR. BUSS: We say that is essential service and sanitation is an essential service.

MR. ROWNTREE: Hydro?

MR. MACAULAY: What about Hydro?

MR. BUSS: We would suggest it has always been carried on. In the past we have had strikes along those lines and they have provided service for the people.

MR. MACAULAY: What about the supply of gas, a publicly-owned utility?

MR. BUSS: It would be pretty difficult at this time to suggest what services would be essential.

MR. MACAULAY: I am not saying any of them are. I was trying to find out which ones you think are so we can consider the ambit of your reference.

MR. BUSS: Let us take the other side and suggest those which are not essential services, and I would suggest the reading of water meters, the maintenance of roads, seasonal collection of garbage.

MR. ROWNTREE: Is it not all essential service?

MR. BUSS: Perhaps you could suggest that and we would have very little to combat.

THE CHAIRMAN: I see there are 34,000 working days' loss. What happened to the essential services in

those cases?

MR. BUSS: In most cases they were carried on. Those referred to in the Kitchener-Waterloo area, they maintained the water services and the essential services.

THE CHAIRMAN: The strike did not apply to them?

MR. MacDONALD: Did you keep a token force on?

MR. BUSS: Yes, that is true.

THE CHAIRMAN: How was that again?

MR. BUSS: By a token force.

MR. ROWNTREE: The election that you want is the right to determine the token force yourself?

MR. BUSS: That is true.

THE CHAIRMAN: The union determine whether the service was essential and how many men should be allotted to carry it out and it is in the union's sole discretion?

MR. BUSS: Yes, that is right.

MR. WREN: In your collective bargaining agreement with the municipality, do you spell out what are and what are not essential services?

MR. BUSS: No.

MR. MACAULAY: If you suddenly decided in one town the water supply or garbage -- which is one you picked, garbage in July was essential in one town, you might not call it essential in another?

MR. BUSS: It may be quite possible.

MR. MACAULAY: And you alone would be the ones to decide, and if you decided garbage was not essential as an instrument or partial weapon in your larger fight you

might call the garbagemen out?

MR. BUSS: That is quite true.

MR. MACAULAY: I am not criticizing you, I am trying to understand your position.

MR. WREN: Supposing your dispute concerned the garbagemen, would you just pull those men out, or the entire municipal force?

MR. BUSS: All services in the municipality would be covered, perhaps by two different unions, and they would all be covered by the one agreement.

MR. REAUME: What actually happened in the strike at Hamilton, the garbage collection strike around about 1944 or 1945?

MR. BUSS: There was a decision by the local union that it was not essential at that particular time for reasons, perhaps, best known to themselves.

MR. RAYSBROOK: Certain services were maintained at the time, the incinerators were kept open and access was made available to it for private contractors to bring in garbage and private individuals to take their own garbage.

MR. MacDONALD: Was there not a strike west of here at Wallacburg? It was written up in the press?

MR. RINTOUL: There was a strike in Wallaceburg.

MR. WREN: 1954.

MR. BUSS: That is where Section 70 was in force and the whole force of employees were fired.

THE CHAIRMAN: And there were assaults and different situations?

MR. BUSS: Yes.

MR. MacDONALD: The interesting point here is, there are far more people in small operating unions who have been fired and have not had the right to work in this collective bargaining than all the individuals for whom, for example, the C.M.A. are now championing their right-to-work legislation.

THE CHAIRMAN: What is your objection to compulsory arbitration?

MR. RINTOUL: We are opposed to most compulsory things. We do not think there should be such a thing compelling anyone to accept a position or taking their right away if they wish to withdraw from service. A person in a free and democratic country has that right and privilege to do so in their judgment. The Arbitration Board has not been fair in their thinking, it is quite possible it has happened before and therefore they should have the right to withdraw a service if they so wish.

MR. BUSS: It is in direct opposition to organized labour in general. But coming back to this Swansea situation of recent date where those employees felt they would like to be organized and that was carried out, and following the proper procedure application for certification was made, and as soon as the municipality on the Friday morning received the respondent's notice to place on the notice board the three people involved whose names were included were immediately called to their office at 12.00 o'clock noon and told that their services were dispensed with at 5.00

o'clock that evening. All sorts of excuses can be put forward to back up the laying off of the employees, but the fact still remains there were twenty-three employees involved; three would not make too much difference; they would get people from the Unemployment office to carry out their jobs. Had that section not applied, had they been under the Act, they could have applied for certification and prevented the strike if such a thing takes place: it has not done so yet because we are attempting to negotiate with the municipality to have them put us under the Act. If that is done, there will be peaceful negotiations; they will take it to conciliation and with a mediator arranged by the Labour Relations Board will either receive something or nothing, and in this case it is the lowest paid municipality in Metropolitan Toronto.

MR. MacDONALD: Is it possible for you in this particular instance to take any action for firing of these people for what you say is union activity?

MR. RUSS: No; if they are under the Act we can, but while they are not under the Act we cannot use the services of a conciliation officer or an examiner. That can only be done while they are under the Act. There is no recourse whatever.

MR. MACAULAY: If you were not to win your whole point as to coming out of your compulsory arbitration, you would presumably support the position that you should be given some of the advantages of the Act so you could have conciliation procedure and they could avoid discharge for

union activity and so forth, would you not?

MR. BUSS: I just didn't get that -- partially, yes.

MR. MACAULAY: The other question I wanted to ask you -- perhaps this was asked before, but what is your position if you decided, if it was the garbagemen, for instance, you decided to follow them out and it is not considered essential, would you pull out members of all the other services in support of the garbagemen?

MR. BUSS: Unfortunately, I think you are misunderstanding the whole situation. The whole group would be under this agreement, we would be negotiating for other services under one agreement, and what affects one affects everybody.

MR. MACAULAY: All right. So say you were free of the Act and the situation came up whereby you were free to strike because of some situation, whatever it might be, but say there was a situation you would be free, then, to pull out everybody in support of a strike, even though it only involved the garbagemen?

MR. BUSS: If they were all covered by that agreement they would all have to be pulled out.

MR. RINTOUL: It could not just apply to the garbagemen.

THE CHAIRMAN: A bargaining unit?

MR. BUSS: Yes.

THE CHAIRMAN: It seems to me we had a group of hospital employees before us and they did not know whether

they wanted to come under the Act or not.

MR. MacDONALD: What group was that? Every group we have had here all want to be under the Act.

MR. REAUME: Not under Section 78 of the Act.

MR. MacDONALD: They wanted to be under the Act but with Section 78 removed.

MR. FUSS: These people that were fired, the question was whether we could protect them or not, and I have a letter from the Department of Labour:

"Dear Sir:

" Re your letter of November 23, 1957 pur-
"suant to the dismissal of Messrs. Weir, Wil-
"shaw and Randall formerly employed by the Cor-
"poration of the Village of Swansea, I have
"been unable to contact you by telephone, there-
"fore would you call me at Empire 3-1211 local
"3211 in order that we may arrange a meeting?"

This was a conciliation officer, and following that -- that was when we applied for conciliation -- they immediately notified us that they could take no action; these people were out from under the Act.

MR. ROWNTREE: I suppose the way that works out, it just does not do the union any good to go to the municipality and ask them what by-laws they have in effect. That would defeat your entire position, would it not?

MR. FUSS: Well, they have a right to refuse that information, the same right that they have that it is not necessary to inform the Labour Relations Board that they

have passed a by-law of that nature.

MR. ROWNTREE: What right do they have to refuse to tell you what by-laws are in effect?

MR. FUSS: We would like to question that. We feel if they have the right, they should inform the Labour Relations Board on passing the by-law taking our employees out from under the Act. We feel that right should be there; we cannot get that information.

MR. MacDONALD: I can give a recent example: in York Township an application was made to the Board in the latter part of September, and at that point and only then did they discover that the by-law had been passed three weeks before.

MR. FUSS: That is applicable in Swansea too.

THE CHAIRMAN: I would like to ask you a question further to what Mr. Macaulay said. Supposing the garbage disposal people were dissatisfied with the pay they were getting and the strike was decided on, the strike would then call out perhaps men who operated the heating plant in a hospital and the hospital would close and everything would close because the garbagemen should have more money. Is that the way it would work?

MR. FUSS: No, that is not true, if that hospital group were not part of the bargaining unit.

THE CHAIRMAN: Supposing they were?

MR. FUSS: It is unusual. I do not believe we have one union where hospital employees are involved with outside workers. It is a separate contract altogether.

MR. MACAULAY: You mean everybody in the whole employees' union would be in the same bargaining unit in the City of Toronto regardless of what job he did?

MR. FUSS: No, sir, there are two separate local unions, local 43 and local 79: 43 is the outside employees and 79 the inside employees.

MR. MACAULAY: And is there one contract covering all the inside and one for all the outside?

MR. FUSS: Yes, sir.

MR. MACAULAY: Therefore, if you call out all the outside people the inside people could stay working. Would they stay working or would you call them out too? You would not have any right to call them out?

MR. FUSS: No. Here might be an illustration of exactly what took place in the City of Toronto last year, and it was in effect for five years. There was a mutual agreement between the municipal council and the employees that they be removed from under the Act for a particular purpose. Now, they went along for five years -- it may have been longer -- and continued to negotiate in good faith. Then last year they could not get together on their thinking and so forth. Being out from under the Act the only thing these employees could do was to resort to compulsory arbitration or strike, and they took the attitude of striking. Immediately the council put them back under the Act and made them process their case through conciliation. Now, there is how it works in reverse. The council does not want a strike, they immediately put their employees back under the

Act and processed under the Labour Relations Act.

MR. MacDONALD: They could be out one day and in the next?

MR. FUSS: Yes.

MR. RINTOUL: I think some sight has been lost of one thing: any union that is outside of the Act or any group of employees outside of the Act can go on strike tomorrow morning or tonight or this afternoon if they so wish, and it is a legal strike because they are not doing anything illegal because they are not under the Act.

MR. MacDONALD: Mr. Macaulay will correct you and tell us it is not a legal strike but it is not an illegal one.

MR. RINTOUL: It has to be either one, Mr. MacDonald.

MR. FUSS: The same thing is in effect in Scarborough last year; they did not see eye to eye and they applied for conciliation and they have a bargaining agreement and have had since 1950. Then, when they could not see eye to eye they applied for conciliation service and on the application received by the Board, the Board informed them these people were not under the Act and the only recourse for them was to strike. They took a strike vote and they informed the municipality they had taken the strike vote and within a matter of hours the municipality passed a by-law putting them back under the Act. Where is the justice?

MR. MACAULAY: Would you get any protection if

there was a provision made, you either had to have a contract or you were under the Act; you were under the Act unless you had a contract?

MR. BUSS: I did not get the gist.

MR. MACAULAY: I said, would you have any protection if the Act provided that you were under the Act unless there was a contract: would that not protect you from a municipality making a move to suit themselves at the last moment in the way you are suggesting ?

MR. BUSS: If we were under the Act, covered by the Act?

MR. MACAULAY: Yes.

MR. BUSS: Not as long as you can invoke Section 78.

MR. MACAULAY: If you are not under the Act you do not have conciliation protection and discharge for union activity and so forth; is that not right?

MR. RINTOUL: You mean at the present time under Section 78?

MR. MACAULAY: No, I am not talking about 78, I am talking about the Act as a whole.

MR. MacDONALD: I think the import of your question would be, it would force a municipality to sign a contract even if they were not under the Act?

MR. MACAULAY: Well, I don't know, I am just wondering.

MR. MacDONALD: That would be worse than Section 78 now.

MR. REAUME: I wonder if I could ask a question?

THE CHAIRMAN: I think Mr. Rowntree has a question.

MR. ROWNTREE: The record should be kept clear. There was a reference to the City of Toronto in previous hearings and you mentioned the two unions, inside and outside employees. There is a situation in the City of Toronto pertaining to the operating engineers and we have had evidence about that, and I think that is a bad example to cite. Let us keep that record clear.

MR. BUSS: What I did say was this: that by mutual consent of the municipal council and the municipal employees they were removed from the Act. I only used this as an illustration to say when it works in the opposite direction;that the municipality acted to offset a strike, placed them back under the Act. That is the only inference I used.

MR. WREN: Was this a situation where the union themselves collaborated with the municipalities to defeat another union?

MR. BUSS: There is no doubt about it, to keep a peaceful negotiation with the municipality.

MR. WREN: Well, using Section 78 ---

MR. BUSS: I suppose collateral issue may be the word.

MR. REAUME: I just want to ask one question: is it not so that where a city, town or hamlet or anything of that sort is under Section 78 of the Act and you had

some minor thing you wanted to speak about, the reeve or mayor or council may easily say to you, "I am sorry, I have not the time, I am going to a baseball game", or "I don't want to speak to you".

MR. BUSS: That is true. I might refer back to the Swansea case again: in my opinion the council were not even contacted in disposing of these employees' services, it happened so fast between the hour they received the communication and 12.00 o'clock noon when these people were informed their services were no longer required after 5.00 o'clock that evening, because there is so much power placed in the hand of town clerks and so forth.

MR. WREN: Well, a mayor has a chance to fire -- it has to be ratified.

MR. BUSS: Quite right. We have no reason to believe that any of the municipal council were acquainted with the situation.

MR. MacDONALD: I think what happens in some instances is that the council hears of it only second or third hand, so to speak. What happens is, if there is a prospect of a group approaching for negotiations the solicitor of the township knows that he can use Section 78, he advises it be done and it comes as a recommendation from him to the township which knows nothing about it. In the instance of York Township, to show how ludicrous it can be, in this case it was at the School Board level: some of the union people approached one of the School Board members and told him this was going to come up, and he said that

he would oppose it, and then he discovered to his astonishment that it had come up and it was passed unanimously and he did not know anything about it. I am not saying this critically. A solicitor comes forward with a legal point and he gives that advice, they do not inquire into it, they take his advice and later they find they have been impinging on what are basic rights.

MR. MACAULAY: I could not seem to get my proper expression for the idea I had in mind, and I have been talking to Mr. Yaremko and I think I put the thing backwards, which is not unlike some of the propositions I put. This is what I meant: would you obtain any protection if you had signed an agreement and the Act said that, having signed that agreement, the municipality would not then have the right to pass a by-law to take you out from underneath?

MR. YAREMKO: You see, we have been told that -- this is after certification proceedings where there is a collective agreement between the union and the municipality, there is an agreement, a contract between the two parties, even in that stage the municipality can pass the by-law and then the contract, although it is still a contract between the two parties, it is not a collective agreement under the Act and that, to me, seems to be a little unfair.

MR. RINTOUL: That is quite correct.

MR. YAREMKO: Mr. Macaulay suggestion is: would you have protection if the law stated that if an agreement -- that this Section 78 would have a proviso to it that it would not be applicable or could not be used in the event

that a collective agreement already existed.

MR. MacDONALD: By a certified union?

MR. MACAULAY: Well, could he not answer the question?

MR. HILTS: What would happen there, as I understand the situation, would be this: that you would have no protection for the unorganized persons. In other words, you say you have a signed collective agreement that they cannot take you out from under the Act; what about people we want to organize? I can give you an example, if you so desire.

MR. YAREMKO: There are actually two phases of the Act: there is the certification procedure, and then there is the collective bargaining procedure. Now, we are not discussing the certification procedure part of Section 78 at the present time, we are discussing the collective bargaining portion of it, that is after an agreement -- as a matter of fact, it could take place after certification and before a collective agreement has been reached, or even after a collective agreement has been reached. At any stage the municipality at the time can pass its by-law, at any stage.

MR. RAYSBROOK: That is right.

MR. YAREMKO: The problem resolves itself into this: would you have a certain element of protection if Section 78 were not deleted completely but if it were limited? For instance, we are presently discussing whether it should have limited provisions as to the certification

procedure part of the Act. You would, in my opinion, have at least some measure of protection which you do not have now.

MR. RINTOUL: I do not think it would just work out that way, the idea of putting something else in place of 78 or adding to or subtracting from -- I think that is what you are suggesting to us -- would not solve the problem that faces us today because at all times there is always a termination of a collective agreement too, and at that time the City could say, "There is no longer a contract here, there is no agreement in force; it is terminated", and the boom is lowered again.

MR. MACAULAY: Just a minute. What do you say there? You are suggesting that the contract -- I thought you were suggesting the contract could be almost cancelled out of hand by a municipality, when it ran its full course and it was over: that is what you are talking about?

MR. YAREMKO: Yes, even if it were limited during the open season.

MR. RINTOUL: We are asking you to take it out completely because we do not think the municipality should have those privileges at all.

MR. MACAULAY: So the problem arises as soon as the contract is over again?

MR. RINTOUL: I just want to elaborate again on something Mr. Reaume said. Mr. Reaume asked about negotiating, and we had a strike in Lambton County in 1956 and I left Ottawa to see if I could effect a settlement. They

would not sit down with the employees at all to even discuss what they were asking for and they were forced to go on strike. Possibly Mr. Yaremko might think this is an essential service because it was the road maintenance. I went down and tried to get a meeting with this committee; there were about thirty-three people involved and I tried to get a meeting and they absolutely refused. They said, "If you are a union man we refuse to talk to you". The county clerk would not say four words to me on the telephone; he said, "I am not supposed to talk to a union man". Well, eventually it did come to kind of an agreement, a damn poor one, but anyway we were in the position -- there were fourteen people involved and getting a pittance of a wage and they were forced to go back with a very, very poor understanding, and in my estimation they passed this by-law taking them out from under the Act within a few days and then refused to speak to any citizen who tried to effect a settlement of the dispute. These people today are still not under the Act, Section 78 still applies and there is no relationship whatsoever, and you can just imagine the position these people are in where they are just at the mercy of this county council each and every day and you either take it or leave it. If that is what prevails in a democratic country I think we had better have some changes.

MR. REAUME: The very same thing that occurs there in Lambton County could occur anywhere else in the Province?

MR. RINTOUL: Yes.

MR. BUSS: Let me cite a case which is worse than that: in the Town of Simcoe they had their employees removed from under the Act and our representatives went to talk to council to reconsider and have their employees put back under the Act. The council refused to do so, but on discussion we suggested that we put it to a plebiscite and have the people vote. The vote was carried on and the Town of Simcoe by a small majority voted that the employees be placed under the Act and the council still said no.

THE CHAIRMAN: Are most employees members of unions? I suppose the vast majority are?

MR. RINTOUL: That is right.

THE CHAIRMAN: Or do you know the percentage of municipalities that have by-laws under Section 78?

MR. RINTOUL: We know there are quite a few, but again we cannot get the information.

MR. MacDONALD: Mr. Chairman, I have a question I have been nursing for quite some time. It ties in with a comment made a moment ago. You said nothing that was either adding or subtracting from Section 78 would really be satisfactory to meet your problem. You want elimination of it. Earlier the other gentleman made the comment that if Section 78 is to stand, he wondered if municipalities could not take under advisement something which could counter it, and I wanted to explore your thinking as to what you had in mind there back about three-quarters of an hour ago.

MR. BUSS: What I was suggesting, that alternate legislation by the municipality, that they would carry

on under the Act. I mean, it is more or less the same procedure except that it would have to be -- and perhaps I was thinking in a little different fashion then -- my thoughts have gone a little astray -- but if the municipality had alternate legislation that where Section 78 was imposed by the Labour Relations Board or by the government, that the municipality could have legislation to offset what Section 78 does and the advantages they take from under the Act.

MR. MacDONALD: Do you mean the municipality involved?

MR. RUSS: The same kind of a by-law they have for them to take employees out from under the Act; that they could invoke something or some alternate legislation that would give the municipalities the right to continue negotiations. I do not have in mind at the present time what it would be.

MR. MacDONALD: If a municipality invokes Section 78 and does not want to negotiate, I do not think you have a chance of them taking an alternate way of doing it.

MR. RUSS: That is true, but we have to ---

MR. MacDONALD: Well, they do not see fit so there you are.

MR. RUSS: That is true.

MR. MacDONALD: I have one final question. In its representation to us, the Canadian Manufacturers' Association made a very strong stand on behalf of the individual workers to work. Since some of your workers or potential

members are denied the right to work, have you ever approached or do you think the Canadian Manufacturers' Association could champion the cause of this group? Here is a group of people being denied the right to work, being fired when they try to join a union.

MR. MACAULAY: You are being asked a question: perhaps you do not recognize it.

MR. MacDONALD: I will be frank with you, the question is a facetious one, but if there is the odd individual who is being denied the right to work and the Canadian Manufacturers' Association is championing this cause and here are a few people being denied the right to work and I think the C.M.A. support you.

MR. RINTOUL: We have that on the record, Mr. MacDonald.

MR. WREN: The main thing is ---

THE CHAIRMAN: Is there any point in going through this brief page by page? Has anyone any further questions, any member of the Committee? Do you want to make any more representations?

MR. RINTOUL: Just in closing I would like to thank you and the members of your Committee for giving us your valuable time here this morning, and it is our wish that you will give our presentation the serious consideration which we think it deserves. We hope as time rolls on that we will read in the paper where you are deleting Section 78.

MR. MacDONALD: All we can do is recommend.

THE CHAIRMAN: May I say that we appreciate very much your coming before us and I think we all understand the great amount of research you have gone to in presenting the brief, and may I compliment you on the way it has been presented.

The next brief we are to hear is that of the Hamilton and District Labour Council, represented by Mr. Gisborn, the Vice-President, Mr. Cooke, the Secretary, and Mr. Foley the Treasurer. Who is presenting the brief?

MR. GISBORN: The Secretary of the Council will present the brief.

THE HAMILTON AND DISTRICT LABOUR COUNCIL

THE CHAIRMAN: We have been having someone read the brief and then we go over the brief page by page, and it will be in order for you to sit while you are presenting it.

---Mr. Cooke reads brief.

THE CHAIRMAN: May I say before we start asking questions, that these matters have been raised before so many times and if we do not ask you as many questions as you think we might, it is because we have already gone over them. Page 1, any questions?

MR. MacDONALD: Mr. Chairman, on this question of bargaining in good faith, your whole suggestion for legal action being initiated by the Board or the Attorney-General's Department is predicated on the assumption that, first, you have succeeded in substantiating the charge to bargain in good faith before the Board, am I right?

MR. COOKE: Yes, to this extent at least: that the Board is satisfied that there is some chance that there has not been bargaining in good faith to the same extent that one might find themselves in court -- they may be innocent but find themselves in court.

MR. MacDONALD: My question is, how often is it possible to substantiate a charge of bargaining in good faith before the Board? It seems to me that is the real

problem, how do you pin it down?

MR. COOKE: I would suggest in this instance, and I think it was the feeling of our council, that there ought to be some kind of investigating procedure where you can give some evidence as there is in cases where you claim a discharge for union activity and so on; there have to be certain sets of circumstances before the Board will pay any attention to you in those cases.

MR. JACKSON: A preliminary hearing, is that not what you are speaking of?

MR. MACAULAY: No, I think the Department sends people out to look into the circumstances and report at any time.

MR. METZLER: In respect of dismissals we would assign a conciliation officer. In the first instance he would get the facts from both sides of the house and then if you feel that the circumstances were sufficient, he would recommend to the Minister the appointment of a commission, a single man, who would then hear it formally, call the parties in, hear all the evidence they wanted to adduce and make recommendations to the Minister.

MR. MACAULAY: It may be that you could, for instance, following your proposition, that you might base a charge of failure to bargain in good faith on a recommendation of the conciliation officer, for instance. That seems to me to be the very best thing you could have to handle the difficulty. There may have been failure to bargain in good faith, and yet that may put them in a position

to weaken their conciliation responsibility.

MR. MacDONALD: It seems to me if you have a certified union, we want to, under the legislation, make certain that there is bargaining in good faith. That is one of the most difficult aspects of it. Perhaps your proposal is the answer. To cite another example that came before us the other day, on the evidence supported by the Conciliation Board in this Canadian Vitrified Products, to me that was like a clear case of not bargaining in good faith.

MR. COOKE: I was involved with that case in presenting it to the Board and there was no intention of reaching an agreement with the owner.

MR. MACAULAY: Well, your position is clearly taken.

MR. MacDONALD: The interesting thing is the specific proposal, having the procedure you have for dismissal.

MR. COOKE: There is one other procedure that may be followed, and that is the procedure that if a claim from one party or the other was placed before the Board, they also in some of the certification proceedings send out examiners to determine whether there have been improprieties, things of this kind. At that stage it may also be possible to send an examiner with a hot claim by the one party or the other to be negotiated by the Board to determine whether or not there had been bargaining in good faith before you get to the conciliation procedure.

THE CHAIRMAN: Page 2?

MR. PERKINS: Mr. Chairman, The Hamilton Labour Council make reference to making a claim to the courts for prosecution as in the United States. I think they have that experience in the United States where a union can institute prosecution through the courts instead of through permission to prosecute.

MR. COOKE: We have had some experience in that, but that is not what we say here. There is no inference in our submission that we wish to do that; we submit that the onus for keeping the legislation lived up to is the responsibility of the Province through one of its agencies, either the Board if it wishes or the Attorney-General's Department, just as you do for your speeding laws and things of that kind: you do not suggest one person or citizen is responsible to keep another in line there, and yet under the Labour Relations Act we say that one party is responsible for keeping another party in line.

THE CHAIRMAN: Page 3? Page 4? Page 5?

MR. JACKSON: It is nice to see a member of the Legislature presenting a brief.

MR. GISBORN: It is too bad there are not more.

THE CHAIRMAN: In the last suggestion of yours might it not be that someone in the company had no right to make the statement that a conciliation board would be of no use?

MR. COOKE: It could have been possible, but in this case this man works for International Harvester and

the difficulty in that case was that the company was trying to gain time.

MR. YAREMKO: Was trying to gain time?

MR. COOKE: Trying to gain time to get this into a better climate for collective bargaining from their own point of view.

MR. YAREMKO: I thought they did not want the Board?

MR. COOKE: They said it would do no good but they still wanted the Board to sit.

THE CHAIRMAN: Are there any other questions?

MR. MACAULAY: Mr. Chairman, I would like to make a motion that in view of the fact this morning we heard from the employees, the brief from the National Union of Public Employees, that our Secretary be requested to send a letter to the Association of Mayors and Reeves so we can hear what they have to say on this issue of Section 78 and the exclusion of public employees from the ordinary rights of labour.

MR. WREN: I will second that.

THE CHAIRMAN: Very well.

Before you go, may I thank you very much for appearing before the Committee and congratulate you on the brief you have presented. I know how much trouble you went to in preparing your brief and I think we all appreciate your public-spirited efforts in coming here.

MR. COOKE: Mr. Chairman, we would like to thank the Committee for hearing us and we certainly would like to

see a re-vamped Act which is more in keeping with the desire of both sides of the bargaining table. We have had submissions for many years from both the employers' organizations and union organizations which showed a dissatisfaction with the Act as it exists, and while the proposals they made were not always complimentary one to the other they would, I think, improve the Act.

THE CHAIRMAN: We will most certainly consider your brief.

The Committee will meet again at 2.00 o'clock.

---Whereupon the Committee adjourned at 1.00 P.M.

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---On resuming at 2.00 p.m.

---Mr. Myers, Acting Chairman.

THE UNITED PACKING HOUSE WORKERS OF AMERICA

MR. PERKINS: Mr. Chairman, we have this afternoon The United Packing House Workers represented by Mr. Sam Hughes and Mr. John Lenglet with the brief you have on your desk.

THE CHAIRMAN: Gentlemen, the way we have been proceeding is to have one of you read the brief then we will go through it, page by page, and we will ask you questions, page by page. You need not stand unless you want to.

MR. LENGLET: Mr. Chairman, I have been asked to read the brief.

---(Reads brief).

Mr. Chairman, I will not read the appendix at this time but I would like to say the British Columbia Act provides for the co-operation of British Columbia with Canada or any other province whereas Alberta provides only for co-operation or transferring to the Canadian Act. We mention in the submission about the co-operation in 1954 the Minister of Labour of Alberta at that time wrote a letter to the Ontario Minister of Labour saying they would co-operate but we were told by lawyers the Minister of Alberta had no right to do that because he had no right to transfer the rights of a province.

THE CHAIRMAN: Mr. Lenglet, which Act do you

prefer; the Alberta Act or the British Columbia Act?

MR. LENGLET: I think the British Columbia Act would be better because of the difficulty of transferring to a province one case ---.

THE CHAIRMAN: Mr. Lenglet, if you do not mind would you read the appendix (a) so we can follow you. After all, that is your whole discussion.

MR. LENGLET: (Reads appendix (a).)

THE CHAIRMAN: Why did you say the Alberta Act was not satisfactory?

MR. LENGLET: Because, Mr.Chairman, it does not provide for co-operation between the provinces. The difficulty there is if three or four of the provinces have the Alberta legislation they can, you might say, transfer their jurisdiction to Ottawa but if the other provinces do not have that we will still have a split up deal and I think it might be possible to get co-operation between the provinces by transferring the jurisdiction to Ottawa. We would prefer that because it would be more clean-cut. I am thinking particularly of Quebec who refuses to go along and refuses to co-operate with Ontario. If we are going to stick with the Provincial Act we have this difficulty: The head office of Swift's is in Ontario; the other one of the Big Three is in Calgary so, conceivably, you use the Alberta Act in the case of Burns and the Ontario Act for Swift's if they should go to conciliation.

MR. WREN: Mr. Chairman, I would like to ask this question for information only: What makes the Packing

House Workers' activities any more national in scope than, say, the United Steel Workers?

MR. LENGLET: It is partially because they build their plants where the livestock is and you have, approximately, 108 in Canada in every province where there is livestock. Where there is a head office that is where they establish things like pensions, statutory holidays and things that affect labour relations. Unfortunately, the companies do not have to make a deal on a local basis. That is even true of Swift's; the pension plan they are going to have is made in Chicago.

MR. MacDONALD: But not to the same extent.

MR. HUGHES: Could I, perhaps, suggest this: I think it is quite different for the Packing House in this respect. The steel workers or the automobile workers I know are two examples used before your Board but they have 80 to 85 percent of their members employed right in Ontario while in the case of the Packing House Workers they are fairly, evenly distributed although there may be more in Manitoba than in Ontario; Alberta has a large number and Quebec is another large centre. In other words, unlike the steel industry we do not have most of our industry in one province. We are scattered from coast to coast and I think we are the only ones, outside of the railways, that have agreements with every province in Canada.

MR. WREN: Supposing the legislators here entertained your suggestion of a Canada Labour Relations

Act and there are still one or two provinces who refuse to come into it; what would you gain if you agree and New Brunswick did not?

MR. LENGLET: If we can convince the Ontario Legislature to do something, either start the Act or - -. Strangely enough, the flour mill industry is in somewhat the same position. Some provinces declare the industry is for the general good of Canada and some say it is not. However, the Federal Government has that authority but I think they do not want to tramp on the toes of provincial labour rights. I think we should get Ontario to start it and even if we get every province except Quebec, at least we would only have two Boards, one dealing with every province except Quebec and another one dealing with Quebec.

MR. WREN: Let us say the ultimate is achieved and you get unanimous thinking right across Canada; could the public then take it a dispute in the Burns plant, anywhere, as a result of a walk-out or a lock-out, as the case may be, would affect the entire industry across Canada.

MR. LENGLET: The only time a strike could occur, legally I am talking about, is on a question of negotiations. If there is a dispute and negotiations break down, there is only one dispute and there could be a strike in all the Burns plants and there would be because many years ago we made up our mind we did not intend to shut down Burns in Quebec and let Burns in Ontario and Manitoba supply the customers. However, that does not

mean the industry would be shut down.

MR. WREN: Do you mean to say if your dispute was with Burns you would shut down each and every Burns plant in Canada?

MR. LENGLET: There is only one dispute. I think that happened in 1947 and I am prepared to say it was a mistake on the part of the union because what happened in 1948 was this: The packers made $40,000 in three months following the strike. Certain farmers lost money and the workers lost wages and the packers made a fortune because they were able to buy at a low price and sell at a high price.

MR. WREN: And if Canada Packers were to go out in sympathy?

MR. LENGLET: We would oppose it.

MR. WREN: It would not be your view, as union directors, to encourage it?

MR. LENGLET: Absolutely not. We have been trying to teach them it is wrong and the dispute is not with that company. In the last strike there were some people in some of the provinces who felt there should be union solidarity and it should be the voice of the union.

MR. HUGHES: There is one other point, Mr. Chairman, and I did not know whether to bring it up before. I was going to deal with this reply to Mr. Montgomery's statement the other day and I do not know whether I should speak on it now: That is, our relationship with every employee of the Swift Company which is solely owned in the

United States. I do not know whether they should come under the Act or not.

THE CHAIRMAN: Gentlemen, do you have any objection to this statement being given now?

MR. MacDONALD: I think we may as well tie this matter up first.

2 MR. HUGHES: Mr. Chairman, we have this particular problem with the Swift Company who call themselves, here in Canada, Swift Canadian. It is solely owned in the United States and at times I do not think we should come under the Act at all within the provincial framework because going into conciliation with this company is practically useless. They ignore the findings of all Boards at all times every time we have dealt with them and they certainly would not co-operate in regard to this matter referred to here. Canada Packers and Burns are rather sympathetic on having some kind of a Federal Act but Swift's are not. I happened to be Chairman of this Swift group and every time I try to deal with the company they say our policy is this or our policy is that. Swift Canadian has no stock in Canada. You cannot buy stock, shares, or anything in Canada. A superintendent in Canada has no power from one plant to the other. In other words, there is no head office in Canada and it is particularly difficult to deal with them. I would like to relate to you the difficulty that your Government here in Ontario has had with the Swift Company. In 1947 the Big Three

strike was on; Canada Packers and Burns were quite willing to meet the Hon. Mr. Daley at that time to try and work out a settlement and also Louis Fine, the conciliation officer, was in at that time and they were talking to Burns and Canada Packers but when they tried to talk to the Swift Company here at the head office they said, "We cannot do anything". Inasmuch as they could not do anything the Hon. Mr. Daley and Mr. Fine took a plane and went down to Chicago. If the Committee think I am exaggerating this, I just want to say that what I am saying is the report that Mr. Fine gave to us. He said, "We went there, hand on the door, sort of speaking, and after going through three or four secretaries finally got to see the fellow who is in charge, possibly, of the whole of the operations for Swift's and he turned around to his secretary and said, who are these gentlemen? Well, they are gentlemen from Toronto. Toronto, where is Toronto? Well, it is up in Canada, Ontario. Yes, Canada. Oh, yes yes. What is the problem? Well, they are on strike. So he turns around and almost, in a sarcastic way, asked how many people would be involved in this strike. About 3,000, 3,500. He said, about as many as we have in our office." According to Mr. Fine they got a nice cup of tea and that is as far as it went and until we were able to reach a settlement with Canada Packers and Burns we were able to get nowhere with Swift's. At times I feel that these American Corporations that conduct themselves in that way should not come under the Act at all. We may as well

say we cannot get along, we will argue and then just go on strike and it should be legal, automatically. We are not asking for an amendment; we do not know what to suggest but we do not think we should come under the Act in these kinds of dealings.

THE CHAIRMAN: Mr. Hughes, are you serious when you say the Act should not apply to packing house workers?

MR. HUGHES: No, it is only that we do not know how to deal with companies that are solely owned in the United States with no head office in Canada and no stock sold in Canada. Recently, we had a strike in the City of Toronto which lasted thirteen weeks, if my memory serves me right, and there were only six people on strike. We went to the head office in New Toronto to attempt to settle it. The man in charge there said, I cannot settle it because I have no power. We even went to the City of Chicago, which is a pretty expensive deal when there are only six people involved, and we were told, if there is any settlement it has to be arrived at by the man in the City of Toronto. We came back to Toronto and went down to see the local superintendent who had just come up from California and he said, I am only running this plant.

THE CHAIRMAN: But there is none of this in your brief?

MR. HUGHES: No.

THE CHAIRMAN: Would you not be wiser to

submit an additional brief including all this?

MR. MacDONALD: In effect, Mr. Chairman, he is submitting a supplementary brief now. What purpose will be served in writing it down; we have it in the record.

MR. YAREMKO: Do I gather, in such a situation, you are bound to deal with every individual plant?

MR. HUGHES: At Swift's, yes.

MR. YAREMKO: You are certified as the bargaining agent? You are certified for each plant?

MR. HUGHES: In effect, yes. Swift's deal with us on a master basis for the whole of Canada like they do in the United States. What I am saying is this: In Canada, here, we can never reach an agreement with Swift's that is satisfactory until we get an agreement with Canada Packers and Burns.

MR. LENGLET: I think, perhaps, we should clarify the point that the trip to Chicago dealt with a fertilizer plant. The master agreement or national agreement covers meat packing plants. All these companies have various plants and unless they are associated with the main plant they are not covered by the master agreement. There are such plants as peanut butter, fertilizer and it is all one bargaining unit but the fertilizer plant in Canada does not come under that agreement. We do not ask that the fertilizer plant in Chatham be put under national legislation merely because it belongs to Canada Packers but it is only those plants where we deal and have dealt

for thirteen years. Swift's accept national bargaining for meat packing plants and the difficulty was that meat packing plants are also international.

THE CHAIRMAN: Do I understand you to say that if Canada Packers and Burns enter into an agreement then Swift's will fall in behind?

MR. HUGHES: Always.

MR. WREN: Literally?

MR. HUGHES: Yes.

THE CHAIRMAN: You have no trouble in that regard: If you make a settlement with Canada Packers and Burns then Swift's will follow?

MR. HUGHES: Yes.

THE CHAIRMAN: What is the matter with that?

MR. HUGHES: It is frustrating. We appreciate that Swift's are the biggest meat packers in the land but all they do is sit back in Canada, here, and say, "Our hands are tied; Chicago calls the shot." However, they agree with whatever the other packers do. They say, "We will go along".

MR. MacDONALD: I believe you told Mr. Yaremko you said you had to bargain on plant by plant basis but the problem is deeper than that; you cannot bargain on an overall basis.

MR. HUGHES: We bargain on a national basis as far as the meat packing plants are concerned; the others are all individual. But when it comes to administrating the

affairs of the agreement, it is then on a plant to plant basis. There is no head office in Canada, so to speak. The interpretation given is always different in every plant. If we could get to the head office we could say the local superintendent said the interpretation of the contract is this, this and this ane after it is straightened out John could go back to Toronto and straighten it out there.

MR. WREN: Does the superintendent you are dealing with have documents authorizing him to deal with the matter?

MR. HUGHES: Yes, he says he has the right and when we pin him down he says he will not make a decision and when we say, where is the policy made, he says it is Chicago.

MR. LENGLET: They have an industrial relations book about that thick (indicating) and each superintendent reports to Chicago in terms of the book.

MR. MacDONALD: Mr. Chairman, may I ask legal counsel a question? Is there anything in the Act, as it now stands, that would make it necessary for a company to, at least, sit down and discuss it with, say, the Minister or the chief conciliation officer? Is it possible because the company has its head office outside of that nation to, in effect, say, we will not have anything to do with it.

MR. WALSH: I would say not. I would say they have to sit down and do it.

MR. METZLER: Yes.

3 MR. WALSH: Certainly.

MR. MacDONALD: If they will not or when they do not, to put it more specifically, what recourse is there?

MR. METZLER: Mr. Chairman, if I might make an observation or two on the discussion in respect of Swift's and, certainly, I do not want to embarrass Mr. Hughes because I think he has had to tell you information that came to him secondhand. First of all, it just so happens that I took part in the negotiations in connection with the meat packing strike and I went to Chicago with the Hon. Mr. Daley and Mr. Fine. We were most respectfully received by Mr. John Holmes, president of the Swift Company. We had a meeting that started at about eleven o'clock in the morning,adjourned for lunch and continued until about four o'clock in the afternoon. Every phase of the negotiation was discussed. The purpose of our visit was to endeavour to get the Swift Company in Canada to come in on the negotiations with Burns and Canada Packers Limited to make it a single negotiation. However, the company were not willing to do that and they said they would continue to negotiate with their people. They had a meeting, and I would say to you the ultimate result was, while we did not get what we wanted there was an immediate speed-up in the negotiations here in Toronto in reference to Swift's and I think Mr. Hughes will bear me out when I say when we resumed with Canada Packers and Burns we found ourselves in a situation that Swift's had

negotiated an agreement with the packing house workers so, actually instead of lagging Swift's were ahead because they had made an agreement. The ultimate result in respect of Canada Packers and Burns was that they agreed on many matters. I think they submitted the final determination of the wage question alone to arbitration and, if my memory serves me right, the arbitrator was the Honourable Mr. McTague.

MR. LENGLET: That is correct.

MR. METZLER: So, I am not saying the policy of the Swift Company is not an overall policy but Swift Canadian Company Limited is a Canadian entity; it is a corporation within the meaning of the Company's Act either here in Ontario or the Canadian Company's Act and is a legal entity in Canada. It has Canadian officers, a president, and I believe all officers necessary to carry on business in Canada. I just want to correct that aspect of the situation. We were not treated contumaciously at all; we were treated with the greatest consideration and met the top people, the president, the vice-president, the president of the Canadian Company, the general superintendent of the Canadian Company just to name a few people who discussed this overall problem.

MR. MacDONALD: It seems very anomalous that the Minister of Labour, his deputy and chief conciliation officer in the Province of Ontario have to go down to Chicago for negotiations to break a deadlock in negotiations

for a company that is situated in Ontario.

MR. METZLER: I suppose you could consider it anomalous but the Minister and the others concerned were endeavouring to get this strike settled.

MR. MacDONALD: I am not critizing you.

MR. METZLER: Our feeling is that if the best situation can be achieved by going to Chicago then we will go to Chicago or anyplace.

THE CHAIRMAN: Go to China, if necessary.

MR. HUGHES: I think the point that is being missed is that the manager and president of the company in Canada would not meet with our unions nor will he today. He will not meet me today. The authority is supposed to be vested in the superintendent, but the local superintendent, when you pin him down says, my superior is in the City of Chicago and we do not have that same bond with someone you cannot see.

THE CHAIRMAN: You see the superintendent in Toronto and, in effect, he says, "I will have to refer you to the Chicago office to get authority to deal with that." What if he does?

MR. MacDONALD: The simple point is, if he is a manager in Ontario is there not --- and I am back to the question I put to you, Mr. Walsh, is there not a legal requirement a manager should be able to negotiate or be empowered to handle affairs under negotiation?

THE CHAIRMAN: No, not a bit; not in any company.

MR. METZLER: I would say this, Mr. Chairman: Whether it is the Swift Company or any other organization that may be a branch of an American concern, they know
4 the risk they run by not bargaining with the union. They may want to put up a particular team. It may be they are seeking to deal with certain aspects of their corporate structure which they want to maintain on a uniform basis such as on pensions on which they may prefer to have an overall pension scheme. Certainly, that may be dictated from Chicago but the fact is bargaining has to take place as to whether it will be done here. Whether it is factual bargaining is another thing but I think Mr. Hughes would be the first person to subscribe to the idea. Notwithstanding any difficulties, they have continued to bargain with Swift's and they have a master agreement.

MR. MacDONALD: How can you say they are continuing to bargain when Mr. Hughes says a Toronto manager of the plant will not, even now, bargain. The situation seems to be this: When they are approached they say they have to get approval from Chicago; that they have an overall policy but after getting approval they should be in a position to say something. The Act places them in a position where they should have to bargain so they are not bargaining in good faith.

MR. YAREMKO: I do not understand, Mr. Metzler, is the point not this: Mr. Hughes wants some

legislation to compel Swift's to bargain with them nationally in the same way as Burns and Canada Packers do voluntarily.

MR. METZLER: But they do it. I would like to ask Mr. Hughes, if I may, what transpired at the last negotiation. I do not know.

MR. HUGHES: That is a good question.

MR. METZLER: Because I think they actually got an agreement, Mr. Chairman.

MR. HUGHES: Mr. Chairman, actually what happened was this: Canada Packers and Burns and Swift's were bargaining at the same time but in separate rooms. All separate but at the same time. And finally, after four days of negotiations with Swift's, I went to the superintendent and said to him, "Aren't you going to make an offer?". He said, "All I will say to you, whatever Canada Packers gives you, I will give you, too." I said, "You are the biggest corporation in the world, can't you do any better than that?" And he said, My hands are tied".

THE CHAIRMAN: Well, Mr. Hughes, what is the matter with that? Lloyds Insurance Company carries on its business in just the same way.

MR. MacDONALD: Yes, Mr.Chairman, but there is only this point: I think this Committee should take a good long look. We have had a great deal of representation about union policy being laid down in another country and

are, therefore, agents of alien forces and here you have a striking example of Management doing that very thing.

THE CHAIRMAN: It is not the same thing. It is a Canadian company with several millions of dollars of assets and that is a different thing.

MR. MacDONALD: In terms of workers trying to get negotiations, you are evading the point.

MR. WREN: Mr. Chairman, I would like to ask Mr. Hughes this question: When you come to the stage of signing a collective agreement or a renewal who, in Canada, signs that for Swift's?

MR. HUGHES: The superintendent of each plant.

MR. WREN: What about your master agreement?

MR. HUGHES: The same thing.

MR. WREN: That is, you have to go to each plant to get a signature?

MR. HUGHES: We just mail them along.

MR. WREN: Yes, but you have to get a signature from each plant?

MR. HUGHES: No superintendent of any plant is in charge of any other plant in Canada. Our point is this: If they had one superintendent in charge in Canada it would be much easier to negotiate, but they do not.

MR. WREN: Mr. Metzler, did you not just get through saying that they were a corporate entity in Canada and had a president and vice-president and so on?

MR. METZLER: There is a Swift Canadian

Company president.

MR. WREN: Why should not the president of a company in Canada sign the master agreement?

MR. METZLER: It is not necessary; a corporation can put the onus on whoever they wish; they could put it on their general counsel on behalf of the corporation.

MR. WREN: Why should it not be signed by the Canadian President or some person appointed by him?

THE CHAIRMAN: What does it matter?

MR. METZLER: The company may not prefer to or desire to do it on that basis. What is the difference as long as it is a valid agreement?

MR. WREN: Mr. Chairman, let me ask one other question: Let us suppose the union were to seek from the Labour Relations Board permission to prosecute under Unfair Labour Practice law?

THE CHAIRMAN: Do you mean the Swift Canadian Company?

MR. WREN: Yes.

MR. YAREMKO: But why? As soon as Canada Packers and Burns come to an agreement they are willing to follow.

MR. LENGLET: They have a general superintendent in Canada but it will be signed by the general superintendent of the company and the National Negotiating Committee then it will also be counter-signed by the plants.

MR. WREN: That is not the answer I got.

MR. LENGLET: That is partially true in Swift's; in negotiating with Swift's, since the negotiations happened to be in Toronto, it is then sent out to the local plants.

MR. YAREMKO: Because their bargaining unit is on a plant basis.

MR. LENGLET: Basically.

MR. YAREMKO: Not basically; you are certified as the bargaining agent for plant A, you are certified as the bargaining agent for plant B and so on.

MR. HUGHES: That is right.

MR. YAREMKO: Because it is conceivable a corporation might have a particular plant for which you have not been certified as the bargaining agent.

MR. HUGHES: The point I am trying to make and it may that I am not putting it very well but I want to stress that it is difficult to deal with a corporation whose headquarters are in a foreign country. We are now dealing with another company here in Ontario and the head office is -- I think it is a Dutch company, and we cannot send a man over there to deal with them and we have been tied up for months and we will have to force them into conciliation. There has been a lot of talk in political circles about American companies being over here who will not let Canadians buy stock.

THE CHAIRMAN: You are not implying that the

Swift Canadian Company is not a Canadian company with a head office in Canada and assets in Canada.

MR. HUGHES: Oh, yes.

THE CHAIRMAN: Then what is your complaint?

MR. HUGHES: That these people here cannot make up their mind until someone in Chicago tells them what to do. The contract we get with Swift's is always a hand-me-down from the other companies and we never have an opportunity to bargain with the Swift Company.

MR. METZLER: Oh, yes, you do.

MR. MacDONALD: Only to this extent: They say, we will do anything the others do.

MR. REAUME: If you take the instance of General Motors, Ford, Chrysler they generally hold back and the unions will deal with one company and after obtaining a settlement with one the others will generally follow through. Is that not a general practice?

MR. MacDONALD: To a degree but they did negotiate.

MR. REAUME: I do not see anything wrong with anybody going over to the States to achieve a settlement. The Ford strike in Windsor was settled with the president of the union; not the president of the union here but the president of the union over there.

MR. MacDONALD: They will not meet with us in the States; they will meet with the Department of Labour.

MR. REAUME: The Swift people have an office

herein Toronto. They are a corporate entity and a legal company of Canada. It is true they do not make any final settlement with you but they will sit down and talk to you about terms of agreement and then, they finally say, this is all subject to the approval of the office in the United States. Is that correct?

MR. HUGHES: Yes.

MR. REAUME: Is there anything wrong with that?

MR. HUGHES: Yes, because even on such things as pensions they say, Our policy is this and we cannot do anything about it.

MR. REAUME: But you have talks with people right here in Canada.

THE CHAIRMAN: And even more than that, Swift's say, we will do whatever Canada Packers and Burns do. What is wrong with that? It should make for uniformity among the employees.

MR. HUGHES: What if they all did the same thing?

MR. MORNINGSTAR: In your agreement with Swift's do you have the same salaries and rates throughout the province?

MR. HUGHES: Canada Packers and Burns?

MR. MORNINGSTAR: Yes?

MR. HUGHES: The basis is the same.

MR. REAUME: And the pension plan is the same?

MR. HUGHES: Swift's plan is slightly better in one instance but not in total.

MR. REAUME: Which would you say was the better pension plan of the three?

MR. HUGHES: I would say Swift's.

MR. REAUME: Then what are you complaining about?

MR. HUGHES: We did not negotiate it.

MR. REAUME: Did they hand it to you?

MR. HUGHES: You are overlooking the point that people like to negotiate. If Canada Packers did exactly what Swift's do, then nobody would do anything because each would sit on their hands and wait and we would have to go on strike.

MR. REAUME: That is something I cannot agree with. May I ask this: In the overall picture of Swift's, Burns and Canada Packers which of the three agreements, in the total package, is the best?

MR. HUGHES: I could not answer that.

MR. REAUME: I am inclined to think Swift's is.

MR. LENGLET: I think, perhaps, some good has come out of this discussion. Basically, the issue we want to place before this room is this: What if negotiations break down in Swift's? The situation is not the same in Canada as if it broke down in Canada Packers and Burns?

MR. REAUME: We have the answer. The Minister

and Louis Fine went down to Chicago.

MR. HUGHES: But they did not settle a thing.

MR. METZLER: I would like to correct one point: We were negotiating with a Canadian team; Canada Packers, Burns Company and the Packing House Workers Union. The Department of Labour would not treat the Canadian representatives of that union in such a contumacious way that we would go down and make a deal with Swift's on the side. We have to deal with the men the union puts up as their team. The thought that lay behind the trip was to try and encourage the Swift Company to come in on the negotiations.

MR. REAUME: And they did?

MR. HUGHES: No.

MR. METZLER: No, they said, we will bargain, in the face of a strike, we will bargain and come to a settlement with the union and they did. They came to a settlement prior to Canada Packers' and Burns' settlement.

MR. HUGHES: No, only prior to Burns final settlement because Canada Packers and Burns had agreed to some terms of settlement with the balance going to negotiation but Burns then settled totally.

MR. METZLER: I know that Mr. Dowling came in one afternoon and we got the information that a deal had been made with Swift's.

MR. LENGLET: That is correct. We were under considerable pressure from farm groups and other groups to arbitrate. Burns and Canada Packers agreed to arbitrate but Swift's refused. I think the Minister and the other . . .

members of the Ontario Department of Labour went down and tried to convince Swift's to go into arbitration but it is against Swift's policy.

THE CHAIRMAN: Mr. Hughes, if you are serious about this will you put it into a supplementary brief and place it before us?

MR. WALSH: Mr. Chairman, I think it is just a case of hurt feelings that these people want to put before you. It is the same thing as an American insurance company saying, we have to get instructions from New York or Chicago. And you have to wait for your cheque until they hear from them. And we have to do it. If people want to have a strike they can have it.

MR. HUGHES: And the result is that we have had more strikes with Swift's than any other company because of their contempt for our union.

MR. MacDONALD: Mr. Chairman, we had representation from steel workers on a new pattern that is developing in their union of negotiations being completed with Bethlehem Steel and once the negotiations are completed it applies to a subsidiary in Canada; Marmora. Is there any suggestion that a pattern such as this might be attempted with Swift's that once negotiations had been settled it would apply in Canada?

MR. HUGHES: I think the difficulty there is that there is more inclination to go to our union. We have some unions in the United States that would not settle until the Canadian plants are brought into line. It is a

possibility but it is not a policy yet but I think it will come in the future.

MR. WREN: Is there any way in your own organization, Mr. Hughes, for the International President to deal with the situation?

MR. HUGHES: They merely pass the buck and say it is up to the Canadian officers to settle. I want to enlarge on one point the Chairman raised: Whether we would be better off without the conciliation procedure. As a union, we do not oppose it because it is accepted as a public policy. But as far as a national policy, we cannot gain any benefits and yet we are saddled with restrictions. It is quite possible if we did go to eight different provinces to settle a national agreement dispute, it is possible to finish in Ontario three months before we finish in British Columbia so that if we had a national strike it would be illegal in some provinces. I think it is impossible to expect a Board in Alberta or Ontario to conscientiously settle a dispute involving a union in Charlottetown, when it does not involve their own province. We really have not had any trouble since 1947 but it could come at any time when the contract is open and the Board would be put in a very untenable position. That is why I suggest, for example, if Alberta is handling the Burns dispute and Burns also have a plant in Ontario and they say, okay, we waive our jurisdiction because it is being consolidated. We have accepted it; the company have accepted it and we have

national negotiations. We have accepted some form of negotiation before going on strike but the difficulty is, how can we get completed; how can we mediate under our contract? We could mediate, we could come out with an agreement that is not acceptable and it would be legal because we have complied with the written word of the law.

MR. MacDONALD: If our Act would include something like what is included in the British Columbia Act, at least, it would be a step forward.

THE CHAIRMAN: Mr. Hughes, would you like to read something else?

MR. HUGHES: Yes, I have a supplementary brief and some letters.

---(Mr. Hughes reads supplementary brief.
Mr. Hughes reads letter from the Ontario Society for the prevention of cruelty to animals and addressed to Mr. William Cancavitch.)

---(Interjection at the top of page two)

THE CHAIRMAN: Mr. Hughes, I do not know that it is fair for you to read that because you are reading about a dispute between you and the Swift Canadian Company and you are putting forward to this Committee only your own views and the Swift Canadian Company are not going to put forward their views, at all.

MR. MacDONALD: They have the right to do this, Mr. Chairman.

MR. HUGHES: Mr. Montgomery referred to us.

THE CHAIRMAN: Let me put it to the Committee: Gentlemen, should this man be allowed to make statements about a company that is not a party to anything before this Committee?

MR. MacDONALD: Mr. Chairman, if you are putting this as a motion to the Committee I would like to draw this Committee's attention that when Mr. Montgomery appeared before us, although this gentleman had nothing about the packing house workers in his brief, he was permitted to make unsolicited and unsubstantiated statements. Sometimes we have people before us after they have spoken they want to come and correct their statements because often they feel that either they have said too little or too much and having accepted Mr. Montgomery and his statements I think it only fair to listen to what Mr. Hughes has to say.

THE CHAIRMAN: I am going to rule that this is not a proper time for Mr. Hughes to make allegations against the Swift Canadian Company.

MR. WREN: Mr. Chairman, I would appeal your ruling.

MR. YAREMKO: Mr. Chairman, I have glanced through this and I do not think that Mr. Hughes, in this letter, is stating anything in regard to the Swift Canadian Company.

MR. WREN: He is merely relating incidents.

MR. HUGHES: They know about the complaint we are referring to here.

THE CHAIRMAN: Then you are not going to say anything about the Swift Canadian Company?

MR. MacDONALD: He is going to give some facts relating to incidents which Mr.Montgomery claimed were proof of violence-prone activities of the union. What greater right has anyone than to come before this Committee to refute such a statement?

THE CHAIRMAN: I do not think he ought to say the Swift Canadian Company did anything.

MR.HUGHES: It is the only way I can prove it.

MR. LENGLET: Mr. Chairman, I think, perhaps, the important thing is that the Humane Society said it was not our fault which shows we were not violence-prone.

MR. HUGHES: They said it was the fault of Swift's. The Humane Society said that but Mr. Montgomery said it was the fault of the union. At one point the Humane Society were going to sue Swift's.

MR. YAREMKO: Mr. Chairman, this is in the statement regarding the packing house workers and we have permitted it to go into the record. It was not just a reference to unions in general but, specifically, to this union. For that reason I think they should have the right to, at least, have their point of view on the record.

THE CHAIRMAN: Gentlemen, are you all in favour of that?

GENERAL RESPONSE: Yes.

THE CHAIRMAN: Very well, Mr. Hughes, you may

continue reading.

---(Mr. Hughes continues reading to the bottom of page 2 of the letter.)

THE CHAIRMAN: Is the Committee still of the opinion that this has something to do with the Labour Relations Act?

MR. WREN: That was not the point.

THE CHAIRMAN: We cannot listen to all this if it has nothing to do with the Labour Relations Act.

MR. HUGHES: You should then have refused to listen to Mr. Montgomery.

MR. MacDONALD: If the Committee made a mistake, it made a mistake in having Mr. Montgomery here and permitting him to make irresponsible statements.

THE CHAIRMAN:It is not possible to get the Swift Canadian Company to come up there and talk about some chicks. However, Mr. Hughes, go on.

---(Mr. Hughes completes reading of letter).

MR. HUGHES: Thank you, Mr. Chairman and gentlemen, for your trouble.

MR. YAREMKO: Mr. Hughes, I would like to just make one comment on that letter and it is something that concerns me. There you have a responsible group, such as the Ontario Society for the prevention of cruelty to animals, which is a major organization within Canada and within Ontario and they say in their letter, about halfway down the

page, " -- I replied that the Society would be prepared so
2 to do providing an agreement could be received from union officials guaranteeing the safe conduct of our personnel and equipment -- ".

Now, Mr. Hughes, is there not something wrong when an organization the size of the Ontario Society for the Prevention of Cruely to Animals, or regardless of the size, believed that there was an atmosphere in which they would require a guarantee of safe conduct of personnel and equipment by a union?

MR. HUGHES: I think it may be customary for them to do that when they think there are large bodies of people involved and we may not be able to control them. In this case there were only 20 to 25 people at any time on the picket line as the entire plant only had 65 people. I might say the Aldermen and the Mayor were very sympathetic to our union. I would say there were more policemen than pickets at any time. However, I think this is just a customary procedure for them to ask for safe conduct for their men and their equipment. I do not know why it was done.

MR. YAREMKO: My point is this: Is it not a commentary on the present system that there should be a necessity for such a request?

MR. MacDONALD: I think Mr. Yaremko is right; it is a commentary on the present system of a company's attempt to break through a picket line and bring their people through which often results in unpleasantness and

here we have an organization who does not want to become involved in the dispute.

MR. HUGHES: The two plants involved, the company said we want to represent them. They went into Labour Relations. We were certified for one group and the company had expanded and although they were the same people on the same payroll and the company won the point making it difficult for us to even picket one section.

MR. MacDONALD: If there is a moral in this for our Committee it is that in future submissions that are made should be general principles and not, in reality, screening wild accusations.

MR. HUGHES: Mr. Chairman, I only drew this supplementary brief up yesterday because I did not want Mr. Montgomery to get away with it. It is not an attack on Swift's but an attack on him.

MR. WALSH: Anyway, in this letter you are all loving and kissing each other, the Humane Society and all of you. What happened to the chicks, anyway?

MR. MacDONALD: Did any of them die?

MR. HUGHES: I think so. That also applies when the market is not good. If the market is not good they just psst; and they die. You just give them the gun.

THE CHAIRMAN: That has nothing to do with it. Mr. Hughes, why couldn't you make a statement to the press that what Mr. Montgomery says is all apple sauce and not bother us with it.

MR. HUGHES: Mr. Chairman, I did not know whether you encouraged this kind of thing.

THE CHAIRMAN: No, I do not like it. Gentlemen, is there any more business? No.

Gentlemen, let me thank you on behalf of the Committee and may I suggest if there is some recommendation you want to make, you are at liberty to do so. If you wish you may submit another brief and we will hear you at anytime at all.

MR. LENGLET: We hesitated to tell people of your standing what to do.

MR. HUGHES: There is another thing, Mr. Chairman: We are so closely tied up with the Ontario Federation of Labour that a good deal of what we have said would be handled through their submission.

THE CHAIRMAN: Thank you very much. The meeting is now adjourned until eleven o'clock tomorrow.

---(Whereupon the Committee adjourned at 3.30 p.m., to resume at 11.00 a.m., Thursday, December 5, 1957.)

LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1, Parliament Buildings,
Queen's Park, Toronto, Ontario

Thursday,
December 5, 1957

JAMES A. MALONEY	Chairman
HAROLD PERKINS	Secretary
GEORGE T. WALS , Q.C.	Committee Counsel

MEMBERS	G.E. Jackson
	Donald C. MacDonald
	Ellis P. Morningstar
	Raymond M. Myers
	Arthur J. Reaume
	H. Leslie Rowntree
	J.W. Spooner
	Albert Wren
	John Yaremko
	Robert Macaulay

APPEARANCES.

Mr. J.P. Metzler	Deputy Minister of Labour

GAMBLE-ROBINSON LIMITED

Mr. E.T. Hobbs	

INTERNATIONAL UNION OF UNITED BREWERY, FLOUR, CEREAL, SOFT DRINK AND DISTILLERY WORKERS

A. Goldie	President Local 173, United Brewery Workers.
M. Gies	Vice-President, Local 173, United Brewery Workers.
F. Kleswetter	Secretary Local 173, United Brewery Workers.
L. Dautner	President Local 327, United Brewery Workers.

---Mr. Raymond M. Myers Acting Chairman.

THE CHAIRMAN: Gentlemen, the first order of business will be to discuss the approval of the minutes of the 26th, 27th and 28th of November. You have been supplied with them. Will someone move and second that they be adopted?

MR. WREN: I move they be adopted, Mr. Chairman.

MR. MORNINGSTAR: I second that.

MR. PERKINS: Moved by Mr. Wren, seconded by Mr. Morningstar that the minutes of the 26th, 27th and 28th of November be approved.

THE CHAIRMAN. There are six briefs which have been presented and no one is appearing in support of them. The Secretary will distribute these to the members.

MR. PERKINS: These briefs are from the Dominion Cartage Company Limited, The London Free Press, Professor J.C. Cameron, Messrs. Lore & Sligh, The Canadian Textile Council and Miss Steele, R.N., Cobourg, Ontario. Copies of these will be distributed to the Committee immediately.

THE CHAIRMAN: Now, there is a representative of Gamble-Robinson present.

MR. NOBBS: My name is E.T. Nobbs.

THE CHAIRMAN: It has been the practice of the Committee to have someone read the briefs and then we go over them again page by page. It will be perfectly all right for you to sit while you read.

MR. NOBBS: Thank you, sir. Before I do start

I would like to point out two or three corrections in the brief, if I may. First of all, on page 3 a little over halfway down the page it should read "50 per cent." instead of 55 per cent. The next one is on page 5, the last sentence on the page, and to that should be added the words "in good standing". On page 7 the last paragraph near the bottom of the page: it should read "The company realizes why the Board and the Act refuses management --". Finally, on page 11 you will notice a little over halfway down the page section 2 should read:

"To consider whether the Board's conclusions of "law are based on a preponderance of the evi- "dence and are sound."

MR. WREN: Are you an officer of the company?

MR. NOBBS: No, sir, I am a solicitor representing the company.

MR. YAREMKO: Is there anyone here from the company?

MR. NOBBS: No, there is not.

---Mr. Nobbs reads brief.

THE CHAIRMAN: Thank you, Mr. Nobbs. Are there any questions with regard to page 1?

MR. MacDONALD: Mr. Chairman, a general question on this question of certification presented here: has your company had particularly bad experiences in terms of unions in representing, in your opinion, the majority of the members?

MR. NOEES: Yes, sir, they have. We get along very well with our union, but our company has felt on several occasions where the union has been certified that if a vote had been taken they would not have been certified. They feel quite strongly about that.

MR. MacDONALD: It seems to me to be a bit contradictory: you get along well but they do not represent the workers.

MR. NOEES: Well, I do not think so. We, I guess the same as any company, on the whole would rather not have a union: on the other hand, once we have one we make every effort to get along with them. However, on several occasions it has been expressed to me that they had the feeling that if the employees had had the right to vote secretly without anyone knowing what their desires were, they would not have obtained a majority of 50 per cent. or 55 per cent.

MR. MacDONALD: I was rather interested in your comment "as in most companies you would rather not have a union"; would it be accurate to regard your proposals with regard to change in procedure to make it more difficult for unions to get in?

MR. NOEES: No, I think these are offered in complete good faith.

MR. ROWNTREE: I suppose what you are suggesting is that the employees are forced into union membership by compulsion, is that what you say?

MR. NOEES: In effect, yes, sir; very often that

happens, I believe.

MR. MacDONALD: Is that not the function of the Board to decide whether that is true or not? Are you in effect saying you have no confidence in the Board's authority to judge whether or not they have been compelled to join a union?

MR. NOBBS: I believe under the present set-up the Board has not the proper facilities to determine that on every occasion.

MR. WALSH: Who are Gamble-Robinson Company? Where do they operate?

MR. NOBBS: They operate out of Toronto. They are wholesale fruit distributors.

MR. WALSH: How many employees have they?

MR. NOBBS: About two hundred and ninety employees in Ontario, about fourteen branches throughout the Province.

MR. ROWNTREE: They operate up in the northern part of the Province too?

MR. NOBBS: Yes, Sudbury, Timmins -- around that district.

MR. MacDONALD: Have you one overall contract, or a number of contracts in various parts?

MR. NOBBS: No, a number of contracts.

MR. ROWNTREE: All with the same union or with different unions?

MR. NOBBS: I am not positive of that, sir.

MR. WREN: You suggest your company would rather not have unions at all?

MR. NOBBS: I suggested generally that on the whole it is my feeling that management would perhaps rather not have unions.

MR. MacDONALD: I am very glad to have that admission; it is the first time it has been admitted.

THE CHAIRMAN: Page 2? Page 3?

MR. WREN: What do you mean here on page 3 by "determining the appropriateness of the unit to be represented"?

MR. NOBBS: Well, by the Act only an appropriate union may be certified; that is, for instance, a group consisting of office employees and labourers in a factory could not be certified under one unit. The group have to have certain interests in common in order to be certified, thus, for instance, in one manufacturing plant you may have two or three different unions, so to speak.

THE CHAIRMAN: Anything else on page 3? Page 4?

MR. MacDONALD: I wonder, Mr. Chairman, if Mr. Nobbs would give us some specific instances or elaborate further at this sentence at the end of the second paragraph:

"Too many avenues of influence and prevarication
"are left open by this method."?

MR. NOBBS: Well, I think our company feels that now, number one, in regard to influences, there is no provision at the present time prior to the hearing by the Board, for the taking of a vote or anything along that line in order to determine whether the employee actually wishes to join the union, and as a result they get organized.

I am not saying this happens all the time; I know it does not -- but it can happen that a union can move in and it speaks to the employees individually and more or less, it is quite possible to misrepresent the facts to them, to colour the facts of joining a union and sort of saying, "Here is the card; all you have to do is pay a dollar and you get this, that and the other thing. Why don't you sign it?" And the fellow says, "All right, I will sign it."

THE CHAIRMAN: Do you know that has happened?

MR. NOBES: I have been informed that it has happened.

MR. MacDONALD: Well, we have had representations in another aspect of the Act which you do not deal with; namely, the right of bringing in a petition to oppose the application for a particular certification. In that instance they do not even have to pay $1.00 and the allegation is that there is even wider scope for what may be described as influence and pressure. Are you happy with the existing procedure with regard to petition?

MR. NOBES: Are you referring to intervention by a group of employees?

MR. MacDONALD: Yes, petition of intervention.

MR. NOBES: Well, I think the same -- no doubt the same avenues are open. I suppose you are referring to management getting hold of a group of employees and saying, "Look, let's get out there and get the boys to sign up"?

MR. ROWNTREE: This question that has been raised by Mr. MacDonald, I think it goes a little deeper than Mr.

MacDonald's question, and I put this to him: that his question to Mr. Nobbs is a counter question to Mr. Nobbs' submission. Now, I do not think it matters, Mr. Chairman, whether it is labour or management that is wrong; if either is wrong, then there is room for correcting the situation. I am speaking of a matter of principle, because Mr. MacDonald's counter question would suggest that because both are wrong, both may be all right, or one is justified as a counter measure. I say this to you, Mr. MacDonald, that if one thing is wrong whether it is for labour or management, it should be corrected.

MR. MacDONALD: I think, Mr. Chairman, I can appreciate that principle, but I am just a little interested as to whether this witness would feel, if he wants to tighten up the already existing rights for a union seeking certification, that it would not be legitimate to tighten up the non-existent rights for petition? They do not have to pay $1.00.

MR. NOBBS: I do not see that they do not have to pay $1.00 to join a union.

MR. MacDONALD: Well, in some instances evidence has been submitted to this Committee that a petition of intervention is the first step towards what becomes in effect a company union.

MR. NOBBS: Yes, but they still have to be certified. At that time they would have to pay their initiation fees.

MR. MacDONALD: If we want to take your premise,

at the moment you do not even know whether these people can become members of the union until they have been certified, if they have not been certified they cannot become members, but once being certified they have to go beyond the $1.00 to the full membership.

MR. NOEES: That is quite correct, because it would be returned -- the $1.00 would be returned if they were not certified or if the union was not appropriate.

MR. ROWNTREE: I do not think we know that.

MR. YAREMKO: Is this not correct: surely a man can belong to a union regardless of whether it has been certified as a bargaining agency or not?

MR. NOEES. Oh, yes.

MR. YAREMKO: The fact of whether a trade union has been certified has nothing to do with its membership?

MR. NOEES: That is correct.

MR. YAREMKO: You can have members of a union, a union in existence which has not been certified as a bargaining agency.

THE CHAIRMAN: I think it would be unusual for a man to be a member of a ---

MR. NOEES: Yes, usually a union wants to become certified but certainly it may be a union under the definition of the Act without being certified.

MR. YAREMKO: Is not your submission in this part of the brief that you are concerned with obtaining the true wishes of the employees?

MR. NOEES. That is right.

MR. YAREMKO: And you feel that the true wishes will be best determined by a vote in all instances?

MR. NOBBS: That is right.

MR. YAREMKO: So that these evils which have been referred by you in your brief and other evils, as pointed out by Mr. MacDonald, probably could be both taken away by a free and secret ballot by the employees?

MR. NOBBS: That is what we feel, sir.

THE CHAIRMAN: Page 5? Page 6?

MR. WREN: Mr. Chairman, on page 6 I would like to ask the witness: almost midway down the page you say,

"The possibility of the employee joining the
"union for other reasons than his true desire
"to have a union represent him and bargain for
"him collectively would be greatly eliminated."

What other reasons are you talking about?

MR. NOBBS: I am there referring back a couple of pages in the brief where I firmly believe, and our company firmly believes that very often a person will join a union who does not particularly wish to join the union or does not understand really what it is all about. It is quite easy to go up to a person, in my mind, for an organizer to go up to a person and paint a glorious picture of what is going to happen once he joins the union and hand over a card and say, "All you have to do is pay $1.00 and you are in." All you have to say is, "All you have to do is give me $25.00"; I think it would make people stop and think. If they want to join a union they will pay the fee in any event.

MR. ROWNTREE: You mean it takes away the validity of the application?

MR. NOBBS: That is right.

MR. ROWNTREE: You have to be careful, Mr. Nobbs, it is a free world on the other side too, and if a man wants to belong to the Elks or Moose, that is his privilege.

MR. NOBBS: I am not suggesting they should not belong, not at all; I am suggesting that the Act should be set up so that if he does belong he will belong of his own true wish.

THE CHAIRMAN: You are saying that on the assumption that the man has been flimflammed into not understanding the obligations he is assuming, but are you not going a little far?

MR. NOBBS: I do not think so, especially in regard to this. I cannot see why. As far as the Board is concerned, he is a member when he pays the $1.00 when, as far as the union is concerned, he is not until he pays the initiation fee.

THE CHAIRMAN: I do not think the $1.00 has much to do with it; it is a matter of good faith.

MR. NOBBS: I would say very little.

THE CHAIRMAN: Page 7?

MR. YAREMKO: On page 6, Mr. Nobbs, this extraordinary discretionary power that you refer to that the Board has under Section 7, subsection 5, are you aware of how often that discretion has been exercised by the Board?

MR. NOBBS: No, sir, I am not. I do not know how

often they have done that.

MR. YAREMKO: Perhaps we can obtain that information, Mr. Chairman?

THE CHAIRMAN: Page 7? You suggest there that there are cases where people whose signatures purport to be placed on cards were not actually placed there by the persons who were supposed to sign. Have you any reason for thinking that?

MR. NOBBS: Well, sir, when the representatives of our company appeared before the Board on several occasions in regard to certain things they were rather shocked by the way the whole thing went through so quickly -- by the fact there is no oral evidence given at all as to who signed the card. No witness is required to state he saw the persons sign the card, the only evidence of their signature is by comparing the two and the Board does that. The same with the receipts; they are required to file receipts but there is no first hand evidence that the $1.00 was paid. The representative stands up and says, "I have been informed that all these people have paid, and these are the receipts."

MR. ROWNTREE: You see, Mr. Nobbs, I am not sure that you are on sound ground as far as I am concerned on that point, because you are aware that there are many quasi judicial bodies, both Federally and Provincially, and those bodies have the right to investigate, conduct investigations of their own, and their findings or what they ask for or the answers they get never come before the Board. Now, there is a reason for it and it is in the public interest that that

information not be made public. I think of a recent situation with the Tariff Board; they have the right to go and get all kinds of information and the parties before the Board have no knowledge of what is before them, but there is a reason for it and in this case the Board has the right and has a staff: are you aware of that?

MR. NOBES: Yes, sir, I am.

MR. ROWNTREE: To investigate the material that is sent to it.

MR. NOBES: I am sorry, but I understand there are a great number of certifications every day that come into the Board, and I feel sure they do not go out and investigate every situation.

MR. ROWNTREE: I think you are not carrying it to the point, because we can get into another phase I do not think you want to get into or you intend to. I just mention it to you.

THE CHAIRMAN: Any more questions on page 7?

MR. MacDONALD: In connection with the last question, suppose you have a situation like International Nickel, 15,000 employees; in effect, the result of your demand would be that you have to bring down a witness for every one of those employees who has been signed up. If that is going to happen it would take months to certify.

MR. NOBES: I would assume they would not have one man to obtain the signature of each employee: that is to say, I would assume at the most there would be two or three who went around and obtained those signatures.

MR. MacDONALD: To get the 15,000? I am afraid you are not very aware of what has to be done and how much work is involved in getting 15,000 people signing cards to receive certification.

THE CHAIRMAN: Page 7? Page 8? Why do you say that an employer cannot make any statement to his employees?

MR. NOBES: It is my interpretation of the present wording of the Act that it completely excludes any statement whatever by the employer, whether that is intended or not ---

THE CHAIRMAN: Can you refer to the section?

MR. REAUME: I think that is true.

MR. JACKSON: That has been submitted before, it is Section 45.

MR. NOBES: Section 45 and 47(c), I think.

MR. MacDONALD: We have had submissions before this Committee that in many instances companies had, by various means, provided information even to the point of calling meetings of their employees.

MR. NOBES: As far as I am concerned, they have never called a meeting of the employees. As far as I am aware they have never interfered that way, but I can assure you it was not their wish not to do so. We told them they could not, and so far as I am concerned they did not, but I am aware of a couple of situations where, if they had, I am quite sure the result would have been different.

MR. YAREMKO: Is not the point a matter of

interpretation? You as a solicitor interpreting that clause might advise your client, the company, that they must not do that, that, et cetera or not do anything. Another solicitor interpreting that clause might say, "Well, you must not do that and that, but you may be able to do this". It is a question of interpretation and you are suggesting it should be clarified.

MR. NOBBS: I indeed think it should be clarified. I may say I am not the only one that feels this section means what it says; there are men much more eminent that I in the labour field who believe that also; that according to the wording of this Act an employer cannot do anything.

MR. JACKSON: I think the Canadian Manufacturers' Association felt that too in their brief. I do not think it is a new thing.

MR. MacDONALD: Well, you have a basic difference here which I do not think can ever be resolved. This suggestion is predicated on the assumption that the employer has a right to get in before the certification. There is the other line of reasoning that it is really none of the employer's business; when a group of men decide whether or not they want to have a union of their choice or which one, that is their right.

MR. NOBBS: Well, I must disagree with you there. I think it affects management. I see your point all right.

MR. MacDONALD: As I said before in this Committee, in an analogous situation just a few days ago the Minister of Agriculture stated it was none of the business of

the Packers as to what form of collective bargaining the farmers or the producers sought, and I think he is correct, and the present Act is on the same assumption.

THE CHAIRMAN: Page 9?

MR. ROWNTREE: Just a reference to page 9: the extraordinary writs. I do not agree with your submission that no matter what the statute says, if there has been an exceeding of the authority there is a right, and you know that.

MR. NOBBS: I am aware there have been a number of cases saying that; however, it is my submission that that section should not be in there.

MR. MacDONALD: Well, the purpose of this section, am I not right, is to screen what might be frivolous appeals to the courts which are designed not necessarily to protect rights, but to foul up the labour/management picture? I would judge from your conclusion that you feel there has to be more freedom in the operation of getting through to the court; otherwise these rights are not being maintained?

MR. NOBBS: That is right.

THE CHAIRMAN: Page 10? Page 11? Page 12? Any more general questions?

MR. MacDONALD: What unions have you in this company, do you know?

MR. NOBBS: I am afraid I have not got that information.

MR. MacDONALD: What is the main one? There may be a number, but what is the main one?

MR. NOBBS: Well, I am not sure how they describe themselves. Actually, I should know but I cannot think of it offhand, but I will be very happy to find out and let you know.

MR. MacDONALD: It is not of major concern.

THE CHAIRMAN: What do you want to know?

MR. MacDONALD: Which unions this company has collective bargaining agreements with.

THE CHAIRMAN: We thank you very much on behalf of the Committee for appearing here. We congratulate you on the trouble you went to in preparing this brief, and we realize we may have asked you more questions except that most of the matters that you have raised have already been dealt with in other briefs, although there are some matters in your brief which are original too.

Thank you, Mr. Nobbs.

MR. NOBBS: Thank you very much, Mr. Chairman.

INTERNATIONAL UNION OF UNITED BREWERY, FLOUR, CEREAL, SOFT DRINK AND DISTILLERY WORKERS

THE CHAIRMAN: We will follow the usual procedure -- have the brief read and then we will ask questions.

MR. ROWNTREE: This union always intrigues me, because of the name. Your union has rather a broad description and just to start with I would ask you one question: how does it cover such a broad field such as flour, cereal, soft drink and distillery workers?

MR. KIESWETTER: Well, years ago there was just the A.f. of L. in the United States, and I am not just too sure of my facts, but at the time they were a small international, and to build up the membership they gave them a little more and a little more. Then, when Mr. Lewis withdrew from the A.F. of L. and started the CIO eventually a number of the unions followed along. We became an independent international for five years and then we joined the CIO, and under the CIO, again being a small union, they gave us all the rights we had under the A.F. of L. plus a few others, and now it has come to the point where it is a very, very large number. We refer to ourselves as the International Brewery Workers but our official title is a long one.

MR. YAREMKO: I would like to ask a question along this line: perhaps Mr. Reaume is a little shy about asking, but have you anything to do with the milk industry?

MR. REAUME: I am not shy.

MR. KIESWETTER: No, sir. To my knowledge I believe in the United States we had some dairy drivers, I am not quite sure, but I do know at the last convention they wanted to insert the name "dairyworkers" in there and it did not pass. I understand there are jurisdictional problems involved and I would not care to discuss that.

MR. REAUME: It is true that up until a short time ago you did have organized a milk industry plant in Windsor?

MR. KIESWETTER: Mr. Chairman, we are one small local union trying to mind our own business, and what is happening in the area outside of our scope we have no control over.

MR. REAUME: I am sorry. You are only speaking of your own local?

MR. KIESWETTER: We are presenting this brief not on behalf of the International, we are presenting the brief on behalf of Local 173.

MR. REAUME: May I just make this one point clear: your union, not your local, did organize a milk distributing plant in Windsor, and they had it for quite some while?

MR. MacDONALD: Perhaps we should hear the brief. Perhaps it may cover answers to some of the questions we are asking.

MR. KIESWETTER: Before we get on, I want to make this clear: this brief is presented by our own local union, Local 173 of the International Brewery Workers representing the brewery workers in the City of Waterloo. We have

approximately 335 members in our local union. This brief does not represent the views of the International Union, I do not know what their views are.

THE CHAIRMAN: How many members outside of Waterloo?

MR. KIESWETTER: We have no membership outside of the City of Waterloo. We have a representative here from the brewery in Kitchener, but he is here just as an observer to listen to what is going on.

I would just like to interject that this brief was drafted by ourselves, and I understand that there are a number of lawyers on the Committee and the wording may not be legal.

MR. JACKSON: It is refreshing.

---Mr. Kieswetter reads brief.

THE CHAIRMAN: Are there any questions as to page 1?

MR. WREN: It is one of the clearest briefs we have had.

THE CHAIRMAN: It is a very good brief.

MR. KIESWETTER: I would just like to make a comment: in the presentation of our brief we have no gripe or beef against the Labour Relations Board or anything of that kind; it is strictly our own recommendations.

THE CHAIRMAN: Anything on page 1?

MR. REAUME: I want to ask a question: up in your area do you actually organize any other type of industry

other than the brewery, flour, cereal, soft drink and distillery workers?

MR. KIESWETTER: We have one small group of ten people in a local union; they applied, we did not go out after them, but they applied to us for membership and they are in the trucking industry. I would say, without checking, that the company handles about 60 per cent. distillery or brewery products in their business -- I would say at least 60 per cent. We did not go after them, they came to us.

THE CHAIRMAN: Page 2?

MR. MacDONALD: Your general recommendation here with regard to conciliation fits in with an alternative approach that has been suggested several times to the Committee; namely, that a time limit of sixty days or ninety days should be fixed, and you can use whatever stages you want, but at the end of that period you would be free to take economic action.

MR. KIESWETTER: Yes, we believe there should be a definite time limit set, so, for instance, if you keep the three-man conciliation board, sixty, seventy or "X" amount of days, when those "X" amount of days are reached.

MR. MacDONALD: The interesting thing is, your brief fits in with this formula, eighty days, midway between sixty and ninety.

THE CHAIRMAN: Page 3? It has been suggested by some people presenting briefs that after the conciliator or the Conciliation Board makes its report, the report ought to be submitted to the membership of the union and there

ought to be a vote whether the recommendations of the Board or the conciliator ought to be adopted.

MR. KIESWETTER: Well, Mr. Chairman, in 1955 what we did when the Conciliation Board report was turned in, we called a meeting of the total membership. It was posted on the bulletin board one week prior to the meeting, and on there was stated the Conciliation Board's report. Now, for guidance we hired -- I should not say hired; we asked a lawyer to come in there and to give a clear interpretation of what he thought of that report. In other words, it was not that we said the report was no good, we had a lawyer there for that purpose.

THE CHAIRMAN: It was considered in detail by the whole membership?

MR. KIESWETTER: That is right. Any time a chap would get up and ask a question that we could not answer, the legal representative would. This was not a lawyer hired by the International or anything like that, it was our own local man.

THE CHAIRMAN: You did not see anything wrong with dealing with the conciliation report that way? It worked all right in your case, did it?

MR. KIESWETTER: Sometimes small local unions are in embarrassing positions, that they have to deal with their own problems without affecting some recommendations made by bigger local unions, and we do not want to embarrass any International, we do not want to be embarrassed.

THE CHAIRMAN: It has been suggested to us that

in some cases the representatives of the union would be armed with the power to strike. That power to strike would be given to the organizer before the conciliation process had been instituted, and it could be used without a consideration of the report.

MR. KIESWETTER: Well, under our International constitution we cannot do that.

THE CHAIRMAN: You cannot?

MR. KIESWETTER: No.

THE CHAIRMAN: All right. Page 4? Page 5?

MR. ROWNTREE: On page 5, that is an interesting observation about extending the power of the Conciliation Board to what you call a trained conciliator. This has been raised before and it proposes some interesting possibilities.

MR. KIEWSWETTER: Well, the reason we propose that is the fact that if you are going to have a one-man conciliation board, a man would have to be trained, know some of the history and the background of the company, and the union he is dealing with; otherwise, you would not want to have some chap, for instance, someone that has handled the mine workers to come in and handle a case for the brewery workers.

THE CHAIRMAN: Page 6?

MR. MacDONALD: Just before we leave that, that has obvious merit. There is only one sort of factor on the other side of the picture and that is that sometimes he gets so familiar with the fields it is difficult to get out ---

MR. ROWNTREE: I often think that.

MR. MacDONALD: For instance, Mr. Justice Rand's proposal of the Rand formula had the whole industrial world, management and labour, panting for about twenty-four or forty-eight hours after it came out because it was a completely new idea. Now, this was the result of a new mind coming in on an old problem and coming up with a solution that has been very widely accepted. I think there is merit in your proposal, but I think now and again you get into a rut and need a fresh mind to come in.

MR. KIESWETTER: I agree with you that there is a good possibility of getting into a rut, but there is also a chance that a man handling these cases -- let us use our own cases; supposing we had a trained conciliator to handle brewery cases, and in the next three years it came to a strike issue each time; it would not be long before the Minister of Labour would say, "Get that man the heck out of here", or the union would. That is the only argument we have on that score.

THE CHAIRMAN: Have you any objection to judges being on conciliation boards?

MR. KIESWETTER: Well, that is a very good question. I will answer this way: we have had dealings with Judge Little and we find him to be very, very fair-minded. We were quite impressed when we were studying the situation he handled in Hamilton quite a number of years ago with the steelworkers when they were going on strike and he walked into the Royal Connaught Hotel and said, "Nobody is going to

leave until there is a settlement", and in a matter of a week he broke what was almost an impossible situation and he got the steelworkers and the company to follow. I understand there has been a ruling by the Department of Justice, or is that on Arbitration Boards?

THE CHAIRMAN: There is nothing final about it.

MR.REAUME: Do you think that was a good ruling they made at Ottawa?

MR. KIESWETTER: I would not care to elaborate on that, because there are good judges and there are good judges.

MR. MacDONALD: May I just ask: have you had any experience with any other judge other than Judge Little?

MR. KIESWETTER: Not a judge, no. I would like to say Judge Little did not let us win the case, we lost the case anyway.

MR. MacDONALD: I can understand how you came to your conclusion if Judge Little is the man you had to deal with.

THE CHAIRMAN: Page 7?

MR. ROWNTREE: Is that a considered opinion?

MR. MacDONALD: Yes, sir.

THE CHAIRMAN: Page 8?

MR. WREN: May I ask generally, do you have a closed shop agreement?

MR. KIESWETTER: Yes, sir.

MR. WREN: You do?

MR. KIESWETTER: Yes, sir.

MR. WREN: This may be an unfair question and do not answer it if you feel you should not, I do not want to embarrass you, but I think it was your International -- one of its locals -- who recently expelled a member who lost his job as a result of his expulsion from the union.

MR. KIESWETTER: That is in the Windsor area?

MR. WREN: Yes, I believe so.

MR. KIESWETTER: As I say, that concerns the Windsor people, but I do not think he lost his job; I think he was given three months' suspension.

MR. WREN: Let us stick to Waterloo. You presented such a good brief I do not want to get you into trouble, but in Waterloo under what conditions would you expel a man which would result in loss of employment?

MR. KIESWETTER: Refusal to pay union dues, refusal to join a union. There are certain religious sects that cannot take the obligation and we are not talking about them.

MR. MacDONALD: What do you do in that instance? Do they pay in a figure equivalent to the dues?

MR. KIESWETTER: No, they pay the dues, but it is the idea, the obligation. We have Mennonites in our area.

THE CHAIRMAN: They are working in the breweries?

MR. KIESWETTER: The only chap who would not take the oath of obligation, I believe it came about that he signed a slip of paper that he would live up to his obligations as a union member and paid his initiation fees. There are in

our area certain people like that.

THE CHAIRMAN: Then you have people who are working in the plant that are organized that are not members of the union?

MR. KIESWETTER: No, everyone in our plant is a member of the union.

MR. WREN: Could you give me an example? Supposing he was expelled for some other cause -- let us say causing trouble in the union, and the union decided to expel him and did expel him; what right of appeal would he have?

MR. KIESWETTER: We have never had any case like that. We have all good union members, but it is in our constitution; we send a copy of our International constitution to each member of the union every time it is revised. They get that in the mail. If he was expelled from union membership he has a right to appeal to the General Executive Board of the International Union, the Council, and he has also a right to appeal their decision at the convention of the International Union.

MR. WREN: Who would pay his expenses? Would that be entirely his own responsibility? Let me re-phrase that question: let us assume that he went as far as the general convention and his appeal was upheld; in other words, the convention ruled he should be reinstated. Who would pay his expenses?

MR. KIESWETTER: I have never run into that, I could not tell you.

THE CHAIRMAN: You never expelled anyone from

your union?

MR. KIESWETTER: We have never had, to my knowledge, a man expelled -- as I say, "to my knowledge" ever had a man expelled from the local union.

MR. YAREMKO: Have you an initiation fee?

MR. KIESWETTER: Yes.

MR. YAREMKO: How much is it?

MR. KIESWETTER: $10.00.

MR. YAREMKO: And you have the closed shop?

MR. KIESWETTER: Yes.

MR. YAREMKO: Is that in all the unions you represent?

MR. KIESWETTER: In the three bargaining units we have closed shops.

MR. YAREMKO: And what are the monthly dues?

MR. KIESWETTER: $4.00.

MR. YAREMKO: Have you checkoff in all these plants?

MR. KIESWETTER: Yes, sir.

MR. YAREMKO: Did you get the checkoff in your first collective bargaining agreement?

MR. KIESWETTER: I believe, Mr. Chairman, years ago -- I would not want this to appear in the record, but we were asked to have the checkoff in the contract. I understand before my time the Secretary of the local union who collected the dues was running around the plant, "Give me $1.00" here and there, and I understand one day the manager was walking through the plant asking for the fellow,

he wanted to see him about something and they told him he was collecting dues, and he said: "For God's sake, why don't they get it taken off their pay?" I do not want to embarrass the company.

MR. MacDONALD: You are not embarrassing them, if you worked up in the gold mining area you would solve a lot of problems.

THE CHAIRMAN: And you have had it ever since?

MR. KIESWETTER: Yes. I don't know whether it appeared in the contract after that.

MR. WREN: You fellows could solve a lot of problems.

MR. YAREMKO: Since your term of office have you organized any plant?

MR. KIESWETTER: No, sir.

MR. YAREMKO: You took office after the plant had been organized?

MR. KIESWETTER: Yes.

MR. YAREMKO: After certification?

MR. KIESWETTER: Yes, before the Act was drafted up. I understand then it was a ruling that any company that had a contract before the present 1949 when the Act came into being, that they were automatically considered certified, so we have never had to go before the Board for certification due to the fact our contracts were signed before 1949.

THE CHAIRMAN: As a matter of fact, did you get what you wanted on the one Board that you had?

MR. KIESWETTER: In 1955?

THE CHAIRMAN: Yes.

MR. KIESWETTER: I would say yes; the company lawyer may disagree with me but I would say yes.

MR. MORNINGSTAR: On your agreements do you have to get any approval from the union in the United States, the International Union, or do you deal with these matters yourself in Ontario?

MR. KIESWETTER: That is right. If we are after a contract we must go in front of the membership for final approval; it is in our local union and it is posted on the bulletin board I would say possibly a week in advance. Sometimes you have a contract set on Wednesday and the company wants to know on Monday where you stand. When each chap comes into the room he is given a copy of the final proposals that we have tentatively accepted with the company and it is put to the membership to accept or reject.

THE CHAIRMAN: You have no difficulty in submitting these questions to the full membership?

MR. KIESWETTER: We have had none so far.

THE CHAIRMAN: How many people turned up at your meetings?

MR. KIESWETTER: I would say roughly 25 per cent. to 40 per cent.

THE CHAIRMAN: That is better than usual?

MR. KIESWETTER: Yes, in those figures I am not being extravagant.

MR. WREN: You mentioned a little while ago discussing the Conciliation Board's report: you called a

meeting of your membership and had a solicitor there to help you explain the terms. How many members turned up at that meeting?

MR. KIESWETTER: I am going to be perfectly frank with you: at that time we had 292 people in the union and 268 turned out. I might also state that on one of the most contentious issues at that time, one of the proposals offered by the company, a chap got up and asked if it was any good and the lawyer told him pointblank it was not worth the paper it was written on, that the last clause invalidated the other two. We had recommended it be turned down and they would not go along with it.

MR. PERKINS: I have a question in connection with this conciliation case: you say here that you negotiated with the company for thirty-six days and failed to reach an agreement; you applied for a conciliation officer and it took thirty-four days before the conciliation officer made an appointment?

MR. KIESWETTER: Yes.

MR. PERKINS: Then it took sixty-seven days' negotiation with the conciliation officer. How many times did you meet him?

MR. KIESWETTER: With the conciliation officer, without checking ---

MR. PERKINS: Several times?

MR. KIESWETTER: We met in June, June 23rd, and then again I believe it was shortly before the July holiday, and then I believe we met -- altogether maybe three times.

MR. PERKINS: He was trying very hard to get an agreement between you and the company before he sent it on to a Board?

MR. KIESWETTER: Well, we hoped he was; otherwise he would not have taken that long.

MR. PERKINS: Was there something unusual in connection with the negotiation that took so long?

MR. KIESWETTER: Well, I figured, or I hope I am right in figuring that maybe the conciliation officer thought there was a chance of settlement and there was not; it was quite apparent to both sides that there was not going to be any chance of a settlement, and maybe he was hoping against hope that a settlement could be achieved. That is what we hope he was thinking.

MR. PERKINS: Then, it took thirty-six more days before you received notice that the Board had been set up. Now, coming to your recommendations, you recommend that the company and union should negotiate for forty-five days?

MR. KIESWETTER: Yes.

MR. PERKINS: And then you leave the conciliation officer fourteen days before the expiration of the contract. We have had some submissions to us that at the expiration of a contract the union should be free to strike so they would have to reduce the number of days that the company and the union could negotiate. You are recommending forty-five.

MR. KIESWETTER: Yes, sir.

MR. PERKINS: You are carrying the thing over twenty days after the expiration of the contract?

MR. KIESWETTER: That is right.

MR. PERKINS: You are also allowing the conciliation officer fourteen days in which to make a report after he has met the parties?

MR. KIESWETTER: I think it says within fourteen days after he has met the parties.

MR. PERKINS: So that is what the Committee have under consideration, the length of time between each of these steps, and your recommendation is eighty days. We have some sixty days, some eighty and some ninety.

MR. KIESWETTER: I can appreciate we are not all thinking alike on that. We believe if there was a date set that would put the company and the union into a position of "let us get a settlement", because right now we have found that you do not get into actual negotiations until one or the other group talks about "in 'X'amount of days this case had better be settled or else".

MR. PERKINS: But there are dates set in the Act now; maybe they are not correct dates.

MR. KIESWETTER: I believe the dates set in the Act, it says you have to have your report in by the conciliation officer and all that, but there is not anything there making it binding. That is the bad feature of the present Act.

THE CHAIRMAN: Any other questions?

Well then, let me say that you have heard words

of commendation of your brief from all of us, and I think we would like briefs just like yours from groups of men who meet these problems, and not merely expressing somebody else's opinion. You should be congratulated on your presentation of your brief, and the matters you have raised will be taken into consideration.

MR. KIESWETTER: Thank you very much.

THE CHAIRMAN: We will adjourn now until 11.00 o'clock on January 14, 1958.

---Whereupon the Committee adjourned until 11.00 A.M. on January 14, 1958.

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ONTARIO

PROCEEDINGS OF

Select Committee
Labor Relations Act

Held at Parliament Bldgs
Toronto, Ontario

VOLUME No. ~~27, 28 + 29~~

JANUARY 21, 22 + 23 1958

OFFICIAL REPORTERS

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TORONTO, ONTARIO

LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1, Parliament Buildings,
Queen's Park, Toronto, Ontario.

Tuesday,
January 21, 1958.

JAMES A. MALONEY	Chairman
HAROLD PERKINS	Secretary
GEORGE T. WALSH, Q.C.	Committee Counsel
MEMBERS:	G. E. Jackson Donald C. MacDonald Ellis P. Morningstar Raymond M. Myers Arthur J. Reaume H. Leslie Rowntree J. W. Spooner Albert Wren John Yaremko Robert Macaulay

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APPEARANCES:

Mr. J. B. Metzler	Deputy Minister of Labour

APPEARANCES (Cont'd)

CHRISTIAN REFORMED CHURCHES OF ONTARIO.

Rev. C. Witt
Dr. G. Spykman
Rev. J. Ehlers.

CO-OPERATIVE COMMONWEALTH FEDERATION

Mrs. P. Stewart
Mr. K. Bryden
Mr. H. Weisbach

THE CHAIRMAN: Gentlemen, it is now 11 o'clock. On the agenda for this morning, the Chair will entertain a motion to approve minutes of the meetings of December 3, 4, and 5 of 1957.

MR. REAUME: I move the minutes be approved.

MR. JACKSON: I second the motion.

THE CHAIRMAN: Moved by Mr. Reaume, seconded by Mr. Jackson, minutes of the meetings of December 3, 4 and 5 of 1957 be approved. All in favour? Carried.

MR. PERRINS: I have before me The Rev. C. Witt, who is Chairman of the Christian Reformed Churches, The Rev. J. Ehlers and The Rev. G. Spykman, who will present the brief on behalf of the Reformed Churches.

THE CHAIRMAN: The brief will be presented by The Rev. Mr. Witt. The procedure we follow, gentlemen, is that the brief is read in its entirety, and then any question which should arise in the minds of the Committee will be put to you. Will you proceed, please?

REV. WITT: I should perhaps say by way of introduction we form part of a committee that represents the Christian Reformed Church of Ontario, and we have been asked to go into the matter of labour relationsand so forth, and we come, therefore, this morning with this brief.

Brief of Christian Reformed Churches of Ontario read by Rev. Witt.

THE CHAIRMAN: Thank you very much. Now then, gentlemen, I think the proper way to handle this

presentation is to deal with it paragraph by paragraph. I would ask the members of the Committee are there any questions arising out of paragraph 1?

MR. WREN: What is the membership of the Christian Reformed Churches?

REV. WITT: The membership of the Christian Reformed Church in Ontario alone is constituted of about 7500 or 8,000 families. I do not know how many individuals that would be, but about four or five times that many. That, approximately, is the number of families.

MR. BEAUMIER: Four to a family?

REV. WITT: Approximately.

MR. MacDONALD: Where are your authorized Churches found?

REV. WITT: Our Churches are found in practically all the better-known, the larger towns of Ontario. All the way from Cornwall to Sarnia. Toronto has three of them. Hamilton has one, and on its edges are four or five more. Trenton, Bowmanville, Oshawa, Peterborough, Lindsay and Chatham -- all the way down the line.

There are 80 Churches in Ontario. Others farther east, but very few. There are quite a number of them on the west coast too, and all through the Provinces. In every Province there are Christian Reformed Churches, but most of them are in Ontario.

THE CHAIRMAN: Anything else arising out of paragraph 1? Paragraph 2? Paragraph 3? Paragraph 4? Paragraph 5?

MR. ROWNTREE: Mr. Witt, I think it is quite clear to all of us that freedom of conscience and religious freedom is something that you want protected. I think that is the thesis, the main thesis of your presentation.

Has there been any instance where your membership has suffered from the complaints you enumerated?

REV. WITT: That occurs under (4). If you want to take that up, all right, but (4) is really the paragraph. It is a paragraph or two farther on. Would you mind, if you could present it then, just to keep it in order.

THE CHAIRMAN: Paragraph 6?

MR. MYERS: Is there some specific case which caused you to present the brief?

REV. WITT: There, again, we can touch upon the other matter if you wish.

THE CHAIRMAN: We will come to that in a moment.

REV. WITT: We can speak in a general way on it now.

REV. SPYKMAN: Mr. Chairman, there is no specific occasion which premised this. It is more or less a situation in which we all found ourselves,and one which I think we are all aware of, that from time to time inequalities arise in the field of labour, which often infringe upon, as we see it, the rights and integrity and conscience of the man in making his choice.

Whatever case we may point out is not intended as the thing upon which this rests or falls, but it is only indicative of a wider and broader thing which is at work in

our society.

MR. MYERS: I was wondering if there was some case of injustice.

REV. SPYKMAN: We can mention a couple, but we would not like to have that view as the sole cause for this thing.

MR. MYERS: You are the second Church which has presented views, and you are to be commended for your interest.

MR. BEAUME: I was just wondering -- you do not mention anything here at all about employers -- I was just wondering in the instance of a plant where 100 people are employed and you have a vote whether or not you are going to have a union in that plant, and 55 people in the plant vote in favour of this certain union. Then, is it the feeling of your Church that those 55 should not have the right to represent all of them? Is that the real meaning of it?

REV. SPYKMAN: I am speaking not because I am a lawyer. I am not at all, and we do not want to appear as being lawyers or attorneys because we are not at all. We are interested in the ethical and moral question primarily. But since I was secretary of the committee, our view of that would be, Mr. Chairman, that the other 45 in some way or other should be granted the right to express themselves as individuals and organizationally in a way consistent with their principles and inner convictions. That is to say, we could hardly speak of

basic rights and perfect freedom without basing that upon a simple majority count, and minority is then forced to go along, conviction or no conviction, and either yield his conviction or be forced to seek other employment.

MR. KRAUNE: Isn't that after all our way of life? We have a government here in the Province which does not enjoy the majority of votes in the Province -- of the people of the Province -- and yet we have to put up with them. That is existing in Ottawa at the present time. I don't want to get into any arguments over this thing.

REV. WITT: Perhaps a little illustration will help us. The other day I was in the home of a man, and I said, "Are you a member of a union?" He said, "I was. I attended four meetings, and all we did at those meetings was holler and shout and swear about wages. Everybody wanted more money, more money, more money." He said, "I couldn't st nd it any longer, and I quit."

This man was compelled by his conscience to step out. The result is he loses his work. He has got to do something else. Now, that is our problem. This man feels conscience-bound to protest, and we feel as Christians we should be able to work in such a manner that we do not violate the integrity of our consciences.

MR. MacDONALD: I recognize the problem. There is one aspect of it that interests me, and that is how you can come to grips with this problem and accept the

democratic process . I am rather curious for example that all these historical treatises that you quote as justifying the acceptance of the state and the dictates of the state and so on are all described as a free democratic era when presumably the state sort of laid down the law. Now, we attempt to operate in a democratic state with the majority principle as being the rule of thumb that we have to operate by, and it seems to me many of the things that you are taking exception to are an effort to apply that democratic principle of majority rule in the labour field.

Do you object to its application in other spheres?

REV. SPYKMAN: It seems to me, Mr. Chairman, that what the gentleman says is right to a certain extent. That is to say, these things were born out of processes of social life and Churches and political life of let us say two and three and four centuries ago, but today we are watching again the development of democracy in the western world, and it seems to me that one of the foundation stones of democracy has always been that society may not suppress the identity of the individual; that there is always room for a non-conformist in a democratic society. Whereas today the pressures of labour -- and in other areas too -- are ousting the person who may not feel that he can, on one point or another, join with the majority.

Is there still room for a minority? A significant minority that has something to contribute. In regard to the example of the political parties, if I voted one party and that party loses, I maintain my identity. I remain Conservative. I lost, but I remain Conservative. However, in the labour movement, if I am A.F.L. and the C.I.O. get the majority, I am forced to join the C.I.O. or seek other employment. The right of the minority is infringed upon and encroached upon in that situation.

MR. MYERS: A man can be a Liberal and Still live, but a man can't be an A.F.L. and still work --

MR. REAUME: For instance, over in the States in one plant they would have five or six unions, and of course when oneunion in the plant has an argument with the employer and they want to go out on strike, they stand in the picket line, and they all go out. So they are in a terrible state of confusion all the time.

I think for purposes of harmony it would be better, much better, in almost any given plant if there were one union representing all the employees instead of having four or five just because somebody wants a freedom of choice, and prefers the way you part your hair from they way I part mine. It has not proven out to be any good.

Now, getting back to swearing, I don't know how we are going to legislate against that.

REV. SPYKMAN: That is not our prime concern, either.

MR. WREN: If you have several unions in the same

plant, you have great competition amongst these unions in making more and more confusion by offering greater and greater benefits to employees.

MR. MacDONALD: You may end up with a greater degree of industrial chaos. It would seem to me you should be disturbed about it.

REV. BRYMAN: I am not European. That has nothing to do with it, but I did spend some time in Europe, and I became acquainted for instance with various -- from the outside -- with various social organizations, and one which I did become acquainted with was the labour organization in the little country of Holland.

There you have a Catholic labour organization. You have a general labour organization, and you have what is called a Christian labour organization. Take the Phillips Company plant for instance in Eindhoven or in Bussum. There in that plant where thousands of men are employed, there are representatives of three unions, and any time collective bargaining is carried on, it is done collectively. All these unions, who by their leadership, first meet together, and in that way they work together in coming to a proposal which they present to the management and to the employer. At the same time, each maintains his identity and the possibility of choosing by his inner conviction which of these three organizations he would like to join. That is just an idea. It is not a suggestion.

MR. MACAULAY: What happens to the fellow who does not want to join any of them?

REV. SPYKMAN: He is not forced to join any. He then profits by the benefits which the others obtain.

MR. MACAULAY: Without accepting any obligation?

REV. SPYKMAN: That is right, and that is not always right either.

MR. MYERS: He does not contribute to the cost of any union?

REV. SPYKMAN: I would not be certain of that.

MR. MACAULAY: Do you think he should pay dues if he obtains the benefit but does not join the union? Do you think he should then pay dues? You yourself -- you did not think it was always right that he should receive benefits and not accept any of the obligations. How would you correct that?

REV. SPYKMAN: It seems to me that it is the obligation of every Christian to live integrally in society. That means to say he does not stand alone. He is a member of society, and as a member of society has a corporate responsibility in society. Therefore, it is in my opinion the duty of the man to join an organization in which he can feel at home. Then there has to be a certain alternative in order to give expression to that freedom.

MR. MACAULAY: But what about the problem, just to deal with that specifically.

REV. SPYKMAN: I have no objection, for example, if a man who is opposed for instance to the general use of union dues, gives the equivalent to a welfare fund, for example, of the union, or to some charitable purposes.

MR. MACDONALD: One group we heard before spoke of the procedure of making contribution equivalent to union dues, and the union can give it then to charity, charity that they designate.

REV. SPYKMAN: Mr. Chairman, we come with no concrete plan. We feel that we are facing men who know more about these things, technically and legally and in every other way than we do. So we do not presume to be able to work out a plan.

Our central thrust is to plead for a greater freedom and possibility of exercising that freedom, consistent with one's conscience.

Precisely how that is to be worked out, that is a big problem. We see it, too, but we feel that more concern should be given to this thing because we run the danger, I think, of losing individual identity, and thereby the freedom of the individual, through compulsions which are being placed by the union shop and closed shop system.

MR. MACAULAY: I think we understand the premise on which you present your case, but it is one thing to present a general proposition and it is another thing to face the implications of applying that general

proposition. We run into a great many difficulties. I see so many inconsistencies here. I cannot reconcile them. On the one hand, for example, stemming from these historical treatises you quoted from, I think you will agree one of the phases of these treatises is that the government and allegience of citizens to government is for the purpose of achieving a degree of stability so there is not chaos in society.

Now the proposition you are proposing I am convinced -- I do not know where the rest of the Committee stand -- is going to end up in industrial chaos. It is applied in other countries and does not produce industrial chaos -- is that one of your points?

REV. SPYKMAN: As far as we know it has not produced industrial chaos in England or Australia where the system has been put into operation. And I know another country in Europe in which a different system is used, in which there is also a great deal of industrial stability. In Russia -- that is an extreme example of course -- in Russia they have great stability.

MR. MacDONALD: Every now and then most of the heads of the state lose their heads.

REV. SPYKMAN: But there is uniformity anyway.

MR. MYERS: We have been told some of the states of the union have passed a legislation, Right to Work. Have you examined any of those laws?

THE CHAIRMAN: They refer to one in Texas.

REV. SPYKMAN: I think the tendency of these laws is more or less in the right direction. I cannot speak about the application of them and how they are working out, but as far as the name itself goes, the man has the right to work, and he has the right to work in an organization of his choosing -- rather than by compulsion.

THE CHAIRMAN: Shall we proceed with paragraph 7?

MR. WREN: Do you feel these authorities you quote are competent to judge in these matters?

REV. SPYKMAN: We find it difficult for ourselves, not knowing these men personally, to judge their qualifications as judges of our labour situation. We only refer to them as examples to indicate we are not alone in feeling there is a certain inequality in the present set-up; that there are others who are also concerned about our problems.

MR. REAUME: Actually what you have done for the most part is to quote people who are not very friendly to the cause of the working man.

MR. MACAULAY: No --

MR. REAUME: I do not say it was their intention.

MR. MACAULAY: They have quoted people who happen to have the same view. That is all.

MR. MacDONALD: If Mr. Reaume is finished I have a question. Two or three interjections in effect, -- such as Mr. Reaume's question -- were not appropriate. It would be interpreted certainly by the labour movement

as being anti-labour. All the sources you quoted, as Mr. Reaume has indicated, are not sources that normally are spouting the cause of labour, but they are normally the chief spokesmen for management.

Quite apart from that, if I may jump ahead for a moment to a paragraph ahead where you object to the use of union dues for "education and social action and politics", you apparently have no objection to that -- you have no objection to any of the management activities and you object to infringing rights of labour.

Section 78 of the Act is a section which gives a municipal council the right of passing a by-law to,in effect,take municipal workers out from under the Act and deny them the privilege of joining any union at all.

Now, my worry is simply this: your sources are management sources in the terms of normal presentation of the case. You have no objection to anything that is happening on the management side so that I do not know how you can avoid the conclusion of many people that in effect the effect of the thing is an anti-union brief.

Have you ever run into this kind of problem in presenting your case before?

THE CHAIRMAN: I would not agree it is an anti-union brief. This brief is presented by these gentlemen from experiences that have been brought to their attention no doubt where injustices have arisen and the conflict of conscience, out of procedure in the

labour movment. It does not necessarily mean they do not find any fault with the employer. They are not dealing with that aspect of it.

MR. MacDONALD: It seems to me if a group comes to this Committee with proposed changes in the Labour Relations Act, or a general thesis out of which they leave us the problem of deciding what changes should grow out of that thesis, that is a legitimate question to say "you find nothing wrong in labour-management participation?"

THE CHAIRMAN: The brief does not deal with that.

MR. MacDONALD: Can I ask this question?

THE CHAIRMAN: You have asked it.

MR. MacDONALD: Could I get an answer?

THE CHAIRMAN: I do not think so. I do not think this body has come here prepared. They may be; I don't know.

MR. MacDONALD: If they are not prepared, let them say so.

THE CHAIRMAN: They have presented the brief and that is what we are discussing, and that is what we are submitting questions on. Unless they have indicated they are prepared to deal with it, I do not think they should be put in that position.

MR. MacDONALD: May I ask if they are prepared to answer the question?

REV. EHLERS: I do not think we ought to

interpret this brief as being anti-labour. If we want to talk in that fashion, I would say we are anti-conscience-bounded.

MR. MacDONALD: But my question, Mr. Chairman, is this: is there anything in the normal actions of management in the problem of labour-management that you feel is worthy of consideration in attempting to get greater fulfillment of the Christian conscience -- scope of Christian conscience?

REV. EHLERS: Undoubtedly we, as a committee, fare like all other committees. Study a problem and then discover that there are others who are of the same mind. When the matter goes into a full discussion, other avenues for study open up, and when these other avenues for study open up, we might find something there in management worthy of consideration. Certainly we would not want to express that we are anti-labour and that management is 100 percent. perfect.

MR. MARTIN: As I see it, what you are trying to do, you are trying to inject a little Christian attitude into the feelings as between employer and employee. Now, if that is the purpose of this brief, let me say as far as I am concerned I think it is good, and I think it is something we need.

I do not, however, agree with certain parts of the brief; that you are trying to take away from union people the things that they have fought for and now have. You are speaking of the closed shop, and you

speak of the union shop and things of that sort. Those are things, of course, that unions across Canada have fought for and have obtained after a long, long bitter fight. To take those things from them at this time, or make any attempt to take them, I think would be wrong, and I think it would only cause trouble.

I do not think we are here for the purpose of causing trouble. We are here for the purpose of amending the Act, and making it work. And I hope the ultimate purpose of our meetings is to bring about probably some system whereby the employer and employee can stand on mutually firmer ground -- Christian ground if you will -- and deal with problems that affect all of us, in an equitable, fair, Christian way.

REV. EHLERS: I think I express the opinion of the committee when I say that our intent is not first of all to take away from the unions one thing or another. We all are agreed on this point, I think, that we are all human. If I in my field of work make progress, it may come to that that I may become domineering, and if I become domineering, as a clergyman, I am in danger of doing wrong things you will all agree. There is no question about it. But that is not the problem.

The problem here is we are considering that the minority is facing the problem of freedom of movement and Christian conscience. There is a problem worthy of consideration of all parties concerned. Management or

labour. Employer or employee. Government or private citizen. It is a matter that concerns our whole democracy in the true sense of the word.

MR. KLAUTE: I wanted to ask one question. It may not be appropriate, but it might bring out a point. Supposing the pastor of a Church -- any Church -- a majority of the people who go to that Church want the pastor to get off. A group say "No, stay". What does the pastor do, and what happens to the people in the event that the pastor goes or stays and is not able to please all of them? Does the Church just completely fold up, or does the pastor abide by the rule of the majority and stay or go, whichever way you want to put it?. Now, the group who did not win their point, they would have the right of course to go to another Church, and not come back, but that would not be a good thing either. What happens in instances of that sort? We have had instances of that.

REV. EHLERS: The question is not, first of all, a question of majority or minority. When such a problem arises in a congregation, the main thing is always to abide by the ruling of the law, and we do well to know that the law is correct and reveals no weaknesses. If, now, in a certain case, a weakness comes to the foreground, then we have a legal basis, and we have solid ground under our feet for action. But we can conceive of a possibility of a minister who may stay with the majority

and make a fatal mistake, whereas he might do better to stay with the minority.

I can also conceive of a possibility that he abides with the minority standing but that he would say he was foolish for doing that because he is simply transgressing all statutes of truth and righteousness.

MR. REAUME: That is a fair answer. Of course it does not make it quite clear.

REV. EHLERS: The only thing is, Mr. Chairman, the illustration presented was not quite applicable.

THE CHAIRMAN: I agree.

MR. REAUME: I agree.

MR. MYERS: I suppose the majority of your congregation are working people? Probably union members, are they?

REV. EHLERS: Yes, some, and some not.

REV. SPYKMAN: Mr. Chairman, one thing was mentioned earlier by the gentleman second from the right here. If we have used biased sources then we have done it unintentionally. In that connection we might state that our intention was not to take up the cudgels for either management or labour, but if possible to create an atmosphere in which both might work freely and operate consistent with the principles of their conscience. We agree, for instance, the National Association of Manufacturers, as it operates in the States -- I for myself am willing to concede, would be willing to point out

injustices they may be guilty of. It is not a question of taking sides. It is a question of basic freedoms which a man has in making his choice, working where he feels he should work, and under the dictates of conscience which he feels are applicable to him in his situation.

THE CHAIRMAN: Shall we proceed then to paragraph 9?

MR. MACAULAY: What is this evidence, the documentary evidence on file you mentioned? I would be curious to know what it was.

REV. SPYKMAN: May I say by way of introduction we are not lawyers , and this case, this testimony is not based primarily upon cases. Whatever cases we may be able to mention would be simply for the sake of illustration.

I have, for instance, certain letters which have been sent back and forth between parties involved concerning a man who is forced out of a job with a steamship company because of the fact that the union had placed its pressures upon the employers, coercion and threats of removing the whole crew unless this man were forced and compelled to join. Whereas later it developed this man, under the terms of the contract, was not subject to that compulsion.

I have another case here of a man who was working in a certain industry where the union was granted a contract, and according to the terms of the contract

there was an arrangement that those who had already worked for a certain period of time for that company were free to join or not to join, whereas those who had worked for a certain period of time and those who would come in the future would come under the union shop clause. However, through certain coercions placed on the employer by the union, the local there involved this man was eventually removed from his job. He sought recourse through legal procedure, and was eventually granted his right, and was reinstated with reimbursements.

This is only to illustrate there is compulsion and sometimes coercion exercised in these affairs, which often leads temporarily or permanently to certain injustice. These things are mentioned, not as cases upon which our appeal rests or falls, but only as examples to point out in what direction we are thinking.

THE CHAIRMAN: What was the form of coercion used?

REV. SPYKMAN: The form of coercion used in the one case was simply this: As I mentioned, the man having worked for approximately three years for the company, felt under these terms he was free to join or not to join. He was plagued by the union until a card of admission was placed under his nose, and finally faced with the alternative "either sign or pressures would be exerted for his removal". Later on he appealed it, and he was granted his rights. The judicial expression, the judgment

in this case, was that he did not fall under that contract, so that the union had temporarily, for a term of three or four months, forced him out of a job to which he was rightfully entitled.

THE CHAIRMAN: Which case is that?

REV. SPYKMAN: It is the case of a certain Mr. Post.

THE CHAIRMAN: In Ontario?

REV. SPYKMAN: Yes.

MR. MACAULAY: What was the name of the company?

REV. SPYKMAN: Brampton Brick Limited.

MR. MACAULAY: And the union?

REV. SPYKMAN: The United Brick and Clay Workers Union, affiliate of A.F.L., Local 640.

MR. MACAULAY: What about the other one you referred to? It is just a question of identifying them, that is all.

REV. SPYKMAN: This man was an electrician I think for Collingwood Shipyard, Collingwood, Ontario. S.I.U. Steamship Seafarers International Union.

MR. MYERS: Are these men members of your Church?

REV. SPYKMAN: As far as I know, not. Th t is not the point at issue. Even if they were non-Church members, it would not make any difference. It is simply a question of freedom involved.

MR. MYERS: The thing that interests me, how often do these cases occur?

MR.JACKSON: Quite often. We have one coming up in London very shortly. Same sort of circumstances.

THE CHAIRMAN: Invariably you will find the courts of justice put these matters right, so that the law is to all intents and purposes as good as it can be in that respect, and the rights of the individual are protected by the law.

REV. SPYKMAN: But for every case that arises there are thousands of persons who are forced to yield certain principles of conscience in order to comply with the system known as union shop or closed shop. They will go along, but they do it under a certain internal protest.

THE CHAIRMAN: Isn't that an established principle in labour relations, that there will be a union shop or a closed shop?

REV. SPYKMAN: We question the necessity of it. Even if it were necessary, is it right? Is it fair? Is it fair when you consider what the basic premises of a democracy are?

THE CHAIRMAN: Apparently it is decided it is right. They want it, and it is fair.

MR. REAUME: Agreed upon by the employers and employees.

REV. SPYKMAN: By the majority.

MR. REAUME: Yes, by the majority. What is unfair about it?

REV. SPYKMAN: It is unfair -- take, for instance,

an electrician. The electrician trade is highly unionized, as I understand. Can a man earn his bread and butter as an electrician without joining a union? If he can't, is it fair to the man, under all circumstances, to be required to join a union? Is that not imposing a certain limitation upon his freedom?

MR. BRAUME: I suppose that the real reason for it, if we were to follow your argument right to the end, you would have people coming in, electricians and carpenters working at certain plants, cutting the basic rate of pay. In my opinion at least, it would not do anything else but cause a state of confusion all the time.

One of the things that unions across Canada and other parts of the world have fought for is basic rates of pay, union wages and all of that. If we are going to have some person who says, "No, no, your basic rate of pay is $1.85 and hour -- I don't want to join the union, but we do the very same job for $1.50 an hour.", what do you think is going to happen there? You are going to have trouble. One of the things we are anxious to do is avoid trouble if we can.

Iam not saying your ideas are not good, but there is one point where instead of doing a service you are doing a great harm.

MR. ROWNTREE: I am very much interested in this question based on religious freedom, and there

are some of us here on this Committee who will always stand up and support it, and take a step for religious freedom. If we lose our freedom, we might as well all quit.

There is a solution to this, and it is referred to in your own brief under "exceptions", and it is at the bottom of the back page under Item D, the second last line, after the word "except", "students, those holding managerial positions, conscientious objectors".

I wonder if that is the type of thing you are asking us to do. Aren't you asking us to make the same provision for conscientious objectors? Now, at that point, I must emphasize and say this to you: contrary to what some people say there are responsible labour leaders and there are responsible representatives of management, and it would be of some interest if you had occasion, to put that proposition up to one of the unions, if it was applicable, or if you had an instance to which you took exception, for there is ample precedent for that exception without disturbing the whole top Act or the development of labour relations. Would that offer any relief to you?

REV. SPYKMAN: We are not so much concerned with an exceptional clause which may grant certain people liberties which others apparently do not feel the need of or perhaps do not appreciate, whichever the case may be. Our concern is more with a situation, as I

see it -- you mentioned the development of the labour movement -- unless I am mistaken, the labour movement was originally intended to guarantee a certain community of interests among labourers in matters of pay, in matters of work conditions, and in matters of holidays whereas in the development of time -- and to a certain extent management has asked for it through injustices in the past -- labour unions have gone beyond that initial mandate and have not confined themselves to that original intention. They have entered upon fields which it seems to me violate the conscience of the individual, when they enter into the question of propoganda, when they go into matters of politics as is done very frequently in the States. There are many Canadian unions -- unfortunately we are strongly under the influence of the States unions -- where they have mixed themselves up in politics; where again to a certain extent, they dictate policies to their member ship, not confining themselves to the original area of community of interest; where a man might be willing to go along with a union on that basis, but because the union has extended its policies and practices to other fields, a man feels it is encroaching upon his personal interest in every field.

MR. REAUME: That man you are speaking about is much the same as a lot of men who are members of a union but they never attend the meetings. All they do

is stay on the outside. We have unions in Canada where the membership totals 10,000, a quorum at a meeting 100, and at many, many meetings they have a time getting a quorum. These are problems that ought to be settled right in the union hall.

Now, you made mention of a matter of bringing politics into it. The union members themselves have that problem in their own hands if they would only deal with it in a proper and effective way. Don't ever think for one moment that any union endorsing any party means that every member of that union votes for that party.

What hap ens is this: when that item is on the agenda on any given date, the people who are interested in seeing that they decide on that one party, they make a point of going, and the people who are not interested don't go, but they still have the right and will always exercise the right of voting for the party or person of their own choice.

It is the people who do not go who are to blame. It is like the man who does not go to Church and finds fault with the operation of the Church.

REV. SPYKMAN: What you say is right. There are too many lax union members, who are perhaps only interested in the returns the union can give them, but are not interested in developing and setting policies and affairs of the union.

On the other hand, there is a certain pressure often exercised in a union which makes it very difficult, if not practically impossible, for people's divergent opinions to really get the consideration they should.

This man mentioned here where certain union monies were diverted into the treasuries of unions in the States -- it was done over the heads of the union membership. The man was finally called to terms of course, but those things are only indicative of certain practices which are undemocratic. This man called for a meeting of the union, and the meeting was never held. Repeatedly postponed. Those are undemocratic practices, as we see them, which impose limitations on the freedom of the individual, not only of the body, but membership as a whole.

THE CHAIRMAN: You do not suggest we go into the internal management of the union?

REV. SPYKMAN: No.

MR. MacDONALD: There is another aspect of the basic thesis. Let us assume you are correct in stating the original jurisdiction or field of interest that the union chose for themselves was strictly that of wages. Surely it is the right of union members -- its democratic right -- to decide that that original union be broadened to incude other things such as education or participation in politics and I don't know

that anybody outside the field can deny them that right and say they must stick to the original field of common interest.

MR. REAUME: The only thing he means --

MR. MacDONALD: I know what he means. Decisions on broadening the field of common interest have been arrived at by the union, with imperfections maybe, but if the people who were away objected to it, they could come to the next meeting and get it right.

MR. REAUME: In the early stages of the union, representatives have made inroads by telling them what they had to do. That was a form of blackmail, I think, but there are other parties who try to play that game too.

MR. MacDONALD: Free trade unions have the right to democratically decide to broaden their field of interest.

MR. REAUME: There is evidence I think in the past and even now that blocs or parties are trying to run the union instead of the union running their own affairs.

THE CHAIRMAN: Shall we proceed to paragraph 10, top of page 3? You have already dealt with part of this.

REV. SPYKMAN: In that connection, may I remark that paragraph should be regarded as a summary of the moral, ethical, conscientious problems involved.

It is to summarize what has preceded.

THE CHAIRMAN: Paragraph 11. Paragraph 12.

MR. SPOONER: To go back to paragraph 11, the suggestion made there in the case where a union has been found to be the authorized bargaining agent based on the majority of the employees being members and wishing to have that union bargain for them, the suggestion is made that the other group who are in the minority should be able to organize free and constitutionally "to safeguard freedom of conscience and social justice and the basic rights of every labourer" et cetera.

How would that work in industry? Would you not end up by having two bargaining agents? There was the suggestion made of one country in Europe with three unions; there could be three union groups in the same industry. Do you think that would not have the effect in this country of creating chaos and confusion in that two, or more than one, were bargaining on behalf of a certain group in a trade or one industry? Whom would you intend to protect? In your statement you attempt to protect the interests of the minority by another union. We have cases where a union has been displaced by another union and had a hearing before the Ontario Labour Relations Board, and so on and so forth.

REV. SPYMAN: Mr. Chairman, in the first

place an advantage of that situation would be this: it would be a more balanced proposal which might be presented to management. Just as there is collective bargaining between employee and employer, so there could be collective bargaining between organizations within labour in order to come perhaps to a more mature, more balanced, better worked out, and a more representative proposal coming to labour.

On the other hand, it seems to me it might have this advantage: good, healthy, sound competition usually works as a stimulus to an organization to improve its qualities and its work in operations and policies.

THE CHAIRMAN: That is hardly what you are asking for. Actually you are asking that even though a bargaining agent has been certified, those who represent the minority, who are not in favour of that bargaining agent, should also be permitted to bargain. In effect what you are saying now is that between members of the union themselves there should be this collective bargaining, between the minority and the majority.

REV. SPYKMAN: In suggestion 4, we mention to act jointly as bargaining agents.

MR. MEAGHE: Our way here is not to act jointly. They won't act jointly, and the proof of the pudding is they have not acted jointly in the past. In

the States you have a whole bunch of arguments and fights going on all the time, right in that one plant.

REV. WITT: I was not aware of the fact in the States there was more than one. There was the possibility there of more than one union representing people in a certain factory?

MR. REKUHL: Often times five, and sometimes even six.

REV. WITT: That is news to me. I thought it was in England and Australia, and that it worked well over there. You must be a member of a union in The Netherlands, but you make your choice. You can be a member of any union you want to. In that way a man has freedom of action.

MR. METZLER: The pulp and paper industry in Ontario is a good example of multiple union representation. They usually have two: International Brotherhood of Paper Makers and International Brotherhood of Pulp, Sulphite and Paper Millworkers Union that may take in the remaining group, but in many cases you will find operating engineers, machinists and electricians are also in a union, so there may be half a dozen different unions bargaining.

THE CHAIRMAN: Paragraph 12, gentlemen. Recommendations and suggestions contained in paragraph 13. Any further questions, gentlemen?

MR. MACDONALD: The import of your proposal

is you would want the closed shop and union shop made away with?

REV. SPYKMAN: Not for the sake of getting rid of them, but for the sake of guaranteeing what we suggest in the first recommendation. That is really basic to free society.

MR. MacDONALD: But whatever may be your motive, the net effect of your recommendation is that you would like the union and closed shop made illegal?

REV. SPYKMAN: I think that might ultimately be the conclusion because of the compulsion involved in that sort of system, because of the fact that men -- perhaps right here in this room -- are of various convictions, and because those convictions have implication for life.

My convictions concerning religion, for example, have a bearing upon the training of my children. My convictions concerning religion have a bearing upon the way I should be working as a Christian and forms the basis of my passing judgment upon the rightness or wrongness of a particular action taken by a labour organization to which I may belong.

MR. BLAUEL: Isn't it so that every Church has certain laws, and we have to abide by them? I know in our Church we have to abide by them -- the commandments of the Church -- but there may be certain

of these that I do not always abide by. Do you think a member of the Church where you have eight rules, that person ought to say "I will abide by six of them but the other two I won't"? Do you still think that freedom of mind and conscience ought to enter into the picture even though it is wrong?

REV. EHLERS: Freedom is not licentiousness.

MR. REAUME: We say that if you were outlawing union shops, for instance, and closed shops, it might bring about trouble.

REV. SPYKMAN: I think when you say you have eight rules, and you question the rightness and propriety of two of them, we have to ask ourselves is it a question of principle involved or not? Or is it simply a practical question of difference of opinion? If there is a principle involved and you feel those two infringe upon your right as a member of your Church, it seems to me you have always the right of appeal.

MR. REAUME: That is news to me. I have the right to appeal by getting out. Those rules were written there by people who know more about it than I.

THE CHAIRMAN: I would prefer that we did not get into the theological aspects of this matter. Any other questions? If not, may I, as Chairman, and on behalf of the members of the Committee, very sincerely thank you for your able presentation. You

can have our assurance it will receive our very serious consideration. Thank you very much.

REV. SPYKMAN: May I add one word, Mr. Chairman?

THE CHAIRMAN: Yes.

REV. SPYKMAN: We would like to have you regard it, first of all, as a plea and appeal for Christian freedom, and it is not based upon any bias which we have either in one direction or another. It is simply based upon our feeling that is as it should be in a democratic society.

REV. EHLERS: Do we have any chance of getting your reaction to this?

THE CHAIRMAN: Not today.

REV. EHLERS: No, but sometime?

THE CHAIRMAN: We consider all briefs presented to us, and your brief with the others will receive our considerations. Then our recommendations will be made to the Legislature, what we think should be done with reference to the different briefs that have been presented to us.

REV. EHLERS: But we do not get anything?

THE CHAIRMAN: Not individually, no.

REV. WITT: I want to think you, Mr. Chairman, and gentlemen, for listening to us, we hope ultimately these problems will not only receive your consideration, but there will be a solution on

which we can agree, and concerning which we want to thank you.

THE CHAIRMAN: The next matter on the agenda is the presentation of a brief only by H. G. Pittman and associates. This brief is presented on behalf of H. G. Pittman, G. R. Morrow, A. Hill and R. J. Willetts, and is dated December 11, 1957. Is it the wish of the Committee that it be read?

MR. ROWNTREE: I move that it be incorporated into the record.

MR. REAUME: I second that.

MR. MacDONALD: Does this ruling obtain for all the other briefs that have been presented in absentia? You remember there were half a dozen of them presented last Fall. I don't know whether you want to tidy up items --

THE CHAIRMAN: They are briefs which are not supported, but should receive our consideration.

MR. MacDONALD: Yes.

THE CHAIRMAN: There is a motion that this brief be taken as read. Moved by Mr. Rowntree, seconded by Mr. Reaume. All in favour? Carried.

Now, gentlemen, the next brief to be presented to us is the Co-operative Commonwealth Federation,

and they will not be here until two o'clock. I think they will be here. In the meantime there are a few items that the Secretary has brought to my attention that should be considered by the Committee while we have half an hour.

--- Off-record discussion followed.

- - - On resuming at 2:00 o'clock.

THE. CHAIRMAN: Gentlemen, I see a quorum. Are the people who are going to present the brief ready?

MRS. STEWART: Yes.

THE CHAIRMAN: Would you kindly come forward to this table, please?

MRS. STEWART: I am Mrs. Stewart, President of the Ontario CCF. I would like to introduce the members of our delegation. Mr. Weisbach who is here as Chairman of the Provincial Executive and Secretary of the Trade Union Committee. Mr. Bryden who is Provincial Secretary.

MR. CHAIRMAN: Who will present the brief?

MRS. STEWART: Mr. Bryden will present the brief.

MR. CHAIRMAN: Before you proceed Mr. Bryden, will you read the brief through first and then you subject yourself and members of your delegation to the questions of the Committee.

MR. BRYDEN: Thank you.

MR. CHAIRMAN: You may sit to read it, if you prefer it that way.

MR. BRYDEN: Thank you. (reads brief up to and including page 11.) Now, Mr. Chairman, we have a summary here which more or less brings to the point of recommendations the various points that we raise in our brief.

MR. CHAIRMAN: You have copies of that summary? I do not appear to have it in my copy of the brief.

MR. BRYDEN: Oh, I am sorry. I have more

copies here of the summary. I did not realize that they had not been attached to what we originally sent in Mr. Chairman. (Copies of summary are handed to Members of the Committee. Mr. Bryden continues reading to end of brief.)

MR. CHAIRMAN: Thank you very much. Now then, gentlemen, you have listended to this brief being read and I would in the usual manner proceed to deal with it by asing if there are any questions arising out of the introductory paragraph?

Anything under Basic Principles on the first page? Basic Principles page 2?

MR. YAREMKO: Is there any significance in the ninth line on page 2 in the verb tense that you use?

You say this: "The employer is so powerful in relation to the individual employee that he was often able to break workers' organizations even without the assistance of restrictive laws." I notice you use 'is' and 'was', the past tense.

MR. BRYDEN: Certainly we did not have any major significance in mind. I think probably the way the thing arose is we were dealing with an historical situation there and said he was. The matter of an employer's power, of course, in relation to an individual employee is present as well as past. I can guess that is how the present tense slipped in there on that particular point. Certainly that was not a matter to which any thought was given. We had no deliberate

intention of conveying anything in there.

MR. CHAIRMAN: Anything else? By the way, could you define the word "ineluctable" to me?

MR. BRYDEN: I am afraid when we had this before our Provincial Executive some of them asked the same thing.

As I understand the meaning of the word, it means, in that particular context, it is a process that simply can not be stopped. It will continue regardless. It is inescapable.

MR. CHAIRMAN: Anything else on page 2 gentlemen? Page 3, dealing with Basic Principles still? Then we come to page 3 "Unfair Practices". Page 4?

MR. METZLER: Mr. Chairman if I might make an observation on this question of the powers of conciliation officers appointed by the Minister to make enquiries into certain unfair practices. The history of that is that it goes back to P.C. 4020 during the war years when the Federal Government found that there were many instances of dismissal allegedly for union activity. This was carried into the Ontario Legislation.

The introduction of the concilation officer arose out of the work that had to be followed by the Federal Government. They found that they did not have a concilation officer active to investigate in the first instance. They were setting up commissioners and finding these things being dropped or fell to the ground. The result was they decided that even on an informal

basis the proper thing to do was to have somebody go up and look at the situation before you went into the formality of appointing a commissioner to investigate. Now we have carried that into the Legislation.

There is one point about this thing: I note that there is an objection to the so-called ad hoc nature of these enquiries. If you leave it to the Ontario Labour Relations Board, which is based in Toronto, you cause a tremendous burden on an employee who claims that he has been discriminated against by being fired.

At the present time if he makes that claim, if there is an indication of his name and address, or the Union makes the claim, every such case is automatically investigated. There is no such thing as exercising discretionary power against an employee who complains on that basis.

The investigation is carried on at the expense of the Government by sending a concilation officer to the scene. If the complaint arose in Fort Francis, we will send a man out there at a cost of possibly a couple of hundred dollars to the Crown to investigate the allegation that this man has been dismissed contrary to the Act, or for Union activity that he was entitled to carry on.

If the concilation officer is not able to resolve the matter, and he will make that preliminary effort in any event, then he will come back and report. He may report that there is a layoff, or that some

other circumstance arose. For instance, it may be that the man has been thrown out of the plant for fighting or some other incident that has not been made apparent at the time that the complaint was made. All these things are investigated.

If in the mind of the concilation officer he does not see sufficient evidence to warrant a formal investigation, he will come back and report to the Minister that he can find no real basis for recommending a commissioner, and the commissioner will not be appointed. If the commissioner is appointed, he goes on an ad hoc basis to the seat of the disturbance, as it were, and he sets himself up formally to hear this thing and he gives everybody an opportunity to be heard.

Imagine throwing that out of the Ontario Labour Relations Board and having to set the thing up on a formal basis; bringing these people in, possibly asking a man who has not enough money to come to Toronto, to come down here and fight his way through a formal hearing of a Board! He is given every assistance to try to establish his position.

The last time that we appointed one was about two weeks ago. In order to give you an idea of the quality of the man, the last man that we appointed was C.R. Magone, Q.C., former Deputy Attorney General. Mr. Magone found in favor of half a dozen employees and ordered the reinstatement and reimbursement from the date they were dismissed.

Now, we have had some good results. We use Judges on occasions. We use Magistrates. We need people who are in the business of hearing evidence and weighing evidence and coming to a conclusion. In many instances the position of the employer has been maintained.

I think you should have the other side of the record and realize that it is a fast procedure. If a complaint is made today, it is put into Mr. Fine's hands for investigation the same day or the following morning.

MR. BRYDEN: Mr. Chairman, if I might just comment on what the Deputy Minister has said. I agree with what he said as to how this Section got in to the Act. As I understand it, it came from Federal wartime legislation and was a sort of model for the Ontario Act. I question as to whether it is the preferable procedure. I would point out that we took a count in our brief, admittedly rather briefly, of the problem of decentralization of administration.

We stressed that if the Labour Relations Board was to handle unfair practices, as we think it should, as a semi-judicial body, it would have to act through agents. It would have to have a system of controlling commissioners, or whatever you want to call them, through the Province.

If experience in the States is any guide, 90% of the cases would never formally come before the

Board at all, except on appeals. The Board would presumably review what these commissioners or investigators, or whatever you want to call them, would do. It would review their work and eliminate discrepancies in their findings. It would not actually have any hearing on the matter unless there was an appeal from such a commissioner.

Now we have not gone into this point in our brief, but we feel that the point has been reached in Ontario where the machinery in the Labour Relations Board should be decentralized in any case.

We freely admit that if you gave them the additional problem of investigating charges of unfair practice such decentralization would be absolutely essential, but we do believe that it is very important. I think it is quite possible to have cases dealt with with dispatch, but we believe that it is important to have uniformity of decision; to have them dealt with by a body which is a judicial body in its basic nature. That is the proper body to deal with this.

MR. CHAIRMAN: In other words, your objection to that answer is concilation officers or commissioners being sent throughout the Province appointed by the Minister. He should be sent out and appointed by the Ontario Labour Relations Board?

MR. BRYDEN: Yes, if the Board was really the moving force in the situation.

MR. CHAIRMAN: Your objection in essence is

that this concilation officer is sent out by the Minister rather than by the Labour Relations Board?

MR. BRYDEN: Yes.

MR. YAREMKO: You are right back to where you are today. All you are doing is giving them a different name and calling them agents of the Board instead of conciliators and commissioners.

How would you get a better job done from say the Board having appointed twenty agents to decide twenty individual cases? You would be right back to where you are today, except that the Board would be appointing the conciliators and commissioners instead of the Minister.

MR. BRYDEN: I submit that that is a very important distinction, Mr. Chairman. This is a judicial function and it should be in the hands of a judicial tribunal of the nature of the Labour Relations Board. It should not be a Ministerial function subject to the pressures - I am not now talking in terms of any idividual or Department as it is now constituted - I am talking in terms of the principles involved. It should not be handled by someone who is a political person, subject to political pressures. It should be taken away from that area of individual administration and put in the hands of the Board who is independent of that sort of thing.

MR. YAREMKO: Has there been a case where

a complaint has been laid and no conciliator been appointed?

MR. BRYDEN: I am not suggesting that. I am suggesting to you sir that we are not talking in terms of the present Minister of Labour or any other Minister of Labour. We are talking of a basic principle; that this is the proper way to handle quasi-judicial matters.

We have two points: It should be in the hands of the Board, with the object of getting it out of the area of politics; and also to get uniformity and continuity in decisions which is not possible under the present setup.

MR. METZLER: I do not agree with that.

MR. BRYDEN: At least it does not follow from the present setup.

MR. CHAIRMAN: This is not the time to argue about that point. I think you have made your point clear to us.

You will of course agree that there can not be continuity because each case has got to be judged on its own merits. No two cases would be on the same basis.

MR. BRYDEN: Except for the fact the same Board is supervising them all means that there is going to be a certain uniformity in the application of the law. Admittedly every case has to stand or fall on its own merits.

MR. CHAIRMAN: It sounds very good in principle. I am afraid it would not work out.

MR. METZLER: I would like to make an observation on this thing because it is very important to the Committee.

There is no such thing as politics ever being in this picture at all. I will tell you why. As soon as the report of the commissioner comes in, it is released to the parties. The document is released to the parties. What happens is this: I write to the parties and I say here is the report. It recommends the reinstatement of these pople. Reinstate them and pay them the money, or kindly carry out the recommendations of the Minister. Those reports are available to the press.

MR. MacDONALD: Are there ever instances in which they do not reinstate them?

MR. METZLER: If they do not, and we are told of it, then they are ordered to. The Minister would forthwith issue an order to carry out the recommendations.

MR. MACDONALD: Have you had that happen?

MR. METZLER: There may have been one or two, Mr. MacDonald. I would not want to be absolutely dogmatic on the thing.

As far as this thing is concerned, there is no secret about it. It is all laid on the table and everybody knows exactly what the score is.

Another rather important thing, the evidence that arises, or the conclusions that arise in respect of dismissal can come before the Ontario Labour Relations Board as part of the case for certification. Evidence in respect to the requirement of the Section regarding the intimidation of the employees in the union trying to obtain a majority could be available to the Ontario Labour Relations Board as part of the process of certification.

MR. BRYDEN: The only final comment I would like to make, Mr. Chairman. I agree there is no point battering this back and forth, but the sort of procedure we suggest is much more in line with the normal procedure of administration of justice where you have courts with appeal courts over them, and so on, than this business of having a Minister making judicial findings on the basis of recommendations he receives from either conciliation officers or commissioners.

MR. CHAIRMAN: There are some instances where you do not want the courts reviewing it.

MR. BRYDEN: I quite agree, but I believe that principle is a very important principle.

MR. CHAIRMAN: Gentlemen, shall we proceed to page 4, Certification and Decertification Procedures? Page 5?

MR. YAREMKO: On page 5 with regard to point (1) halfway down the page, Mr. Bryden, is it not the ultimate desire of the trade union movement that the employees be members of the trade union?

MR. BRYDEN: I have no doubt, but we are talking in terms of what should be determined under a Statute which has a specific purpose. We are not talking about the ultimate desires of the trade union movement.

MR. YAREMKO: However, the ultimate goal of the bargaining agency would be -

MR. BRYDEN: To sign them all up if we can.

MR. YAREMKO: ---that those who wish it will become members of the union?

MR. BRYDEN: I have no doubt.

MR. YAREMKO: Going so far as a union shop or closed shop eventually in the bargaining process.

MR. BRYDEN: That may or may not be their objective.

MR. YAREMKO: Would it not be fair to have a proposition where right from the initial stages those who wish the ultimate goal to be achieved would indicate their willingness from the very beginning, and in that way they would be aware of, say the constitution of the unions? Naturally only by becoming a member would they become aware and they would know what the union dues are.

MR. BRYDEN: I would suggest to you that what the Board should be called upon to look into is whether or not, as we say here, the employees want this union to represent them.

As a matter of fact, under the interpretation the Board has placed on the clause, they do not become members, in any real sense, in any case if they merely

pay $1.00. That may or may not meet the obligation of membership, but we suggest all that the Board should be asked to determine is do these employees want this union to represent it or not. What other things may subsequently transpire or may not transpire has no relationship to the question which is to be determined.

Might I point out, as the Brief points out, that when the Board conducts a vote, it does not find out whether the people voting are members of the union. It just finds out whether or not they want that particular union to represent them. That is all that should be enquiried into, or all that has to be, in our opinion.

MR. YAREMKO: Can you ever conceive of a situation where in asking an employee whether he would want a trade union to represent him, there would be a clause in that document stating the union undertakes that it will never require the employee, whose signature appears on this document, to become a member of the trade union?

MR. BRYDEN: I do not see that there would be any purpose or any good for such a declaration. The purpose of the Act, or this phase of the Act is to find out one thing: Do these employees want a union to represent them or not. We suggest that the activities of the Board should be concentrated on determining that one question.

We also assume that the men are normally

intelligent and if they say they want this union to represent them, they do want it to represent them, and that they have made the normal investigation that any intelligent human being would make to find out what is involved. It would not follow at all that if they signed such a declaration they have to become members later. That does not follow.

It would, I think, follow that if the union does not persuade them at one stage or another to become members of the union, that union is not likely to stay around very long as their bargaining representative. If it could not persuade them to become members, it would likely not be around at the expiration of the contract.

I still suggest, however, that all the law should or must determine is do these men want that union to represent them or don t they.

MR. CHAIRMAN: I think you have made that point. Page six, gentlemen? Item 2? Item 3? Page seven? Item 4 on page 7? The reason you may not be asked any questions is that these have been sumitted.

MR. BRYDEN: I have no doubt that has been before you many times.

MR. CHAIRMAN: Page 8, Union Security?

MR. BRYDEN: Since this may not be too clear, if you read this point in conjunction with our recommendations you will note that although we think something more is justified, all we are recommending is the voluntary revocable checkoff.

MR. CHAIRMAN: Page 8, Conciliation Procedures? The third last line on page 9: "Why should all cases be put in the same bed of Procrustes?", what exactly does that mean?

MR. METZLER: Professor Wood had that one, too. It is not original.

MR. BRYDEN: From my recollection of Greek Mythology it is a gentleman who wanted everybody to be the same size, and he either put you on the bed and stretched you out, if you were not long enough, or if you were too long, he would cut your feet off or something.

He made everybody 35 days in length.

MR. CHAIRMAN: Page 10. The reason again you may not be asked about this, there already have been representations made that we should extend our conciliation services by getting conciliators trained for that purpose.

MR. YAREMKO: Do you think that while everybody may not want to be made to fit the same bed, they may expect to be treated exactly the same way? Each party to the dispute would want to say they do not want the Minister to decide whether there should be a Conciliation Board or not; they would want to be entitled to it?

MR. MACDONALD: This proposal has 90 days. That is the suggestion.

MR. YAREMKO: They would not all be entitled to the same procedure.

MR. BRYDEN: I suggest now, as we tried to emphasize, we are out of the judicial side of the Act. We

are into what is in our opinion a completely non-judicial position. It is simply the matter of getting people together when they are having trouble, and we suggest that the best way to do that is to have a flexible approach. Tailor-make your service to their needs rather than to just say well it doesn't matter what problem you are faced with, you have all got to go through this same procedure.

We say that in the main the conciliation officer is the most important person in the situation. There may be cases for Boards; there may be cases for mediators. The conciliation officers are really the important thing, and you have Boards where they are required, whether or not you have previously had conciliation service.

I would be quite satisfied that if you had this on a voluntary basis, a voluntary type of conciliation rather than a compulsory type that if somebody applied for a Board, I am quite prepared to believe that the Minister would give very serious consideration to it.

The way the thing is now, before they can strike they have got to have a Board whether it will put them in accord or not.

MR. METZLER: That is not accurate.

MR. BRYDEN: It amounts to that. I will agree it is not technically accurate.

MR. METZLER: It is not accurate. The Minister can refuse a Board.

MR. BRYDEN: Yes, I know, but how many has

he refused?

MR. METZLER: He refused I think about 68 or 70 in the past twelve months.

MR. BRYDEN: How many of these were ones where there was a really serious economy?

MR.METZLER: You asked me how many were refused I don't know the details. I did not go into the issues. I know he refused 68 or 70.

MR. CHAIRMAN: I think we are getting down to political matters now. Let us get on to page 10.

MR. BRYDEN: If I might just say one word. I think there are pretty clever people who take the same sort of flexible approach to conciliation as we have, and I do not think it is purely a political matter.

MR. CHAIRMAN: Page 10, gentlemen? Anything else on page 10? Page 11? Page 11 Public Employees? We have already heard this submitted before that Section 78 should be deleted from the Act.

Now the Summary on Page 12. Anything on page 12 in relation to Unfair Practices? Certification and De-Certification Procedure? Page 13, Union Security? Conciliation Procedures? Public Employees? Any further questions, gentlemen?

In conclusion, Mrs. Stewart and gentlemen may I as Chairman of the Committee thank you for this very exhaustive brief, and I assure you that your brief along with other briefs that have been presented to us will receive our very careful consideration in our deliberations.

MRS. STEWART: Thank you.

MR. CHAIRMAN: Well, gentlemen, it would appear that that closes our work for this afternoon, insofar as the presentation of thebrief is concerned.

This Committee is now adjourned until Wednesday morning at 11:00 o'clock.

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--- The Committee adjourned at 3:30 P.M. until Wednesday January 22nd, 1958, at 11:00 o'clock.

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LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee-Room No. 1, Parliament Buildings,
Queen's Park, Toronto, Ontario.

Wednesday,
January 22, 1958.

JAMES A. MALONEY	Chairman
HAROLD PERKINS	Secretary
GEORGE T. WALSH, Q.C.	Committee Counsel
MEMBERS:	F. E. Jackson Donald C. MacDonald Ellis P. Morningstar Raymond M. Myers Arthur J. Reaume H. Leslie Rowntree J. W. Spooner Albert Wren John Yaremko Robert Macaulay

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APPEARANCES:

Mr. J. B. Metzler	Deputy Minister of Labour

INTERNATIONAL NICKEL COMPANY OF CANADA

Mr. T. D. Delamere, Q.C.
Mr. H. P. Crawford.

RELIGION LABOUR FOUNDATION

Mr. M. Cotterill
Rev. J. R. Mutchmore
Rev. A. Toye

THE CHAIRMAN: Gentlemen, I see a quorum. This brief is being presented by The International Nickel Company of Canada, Limited, respecting labour relations in the Province of Ontario. The brief is being presented by?

MR. DELAMERE: T. D. Delamere is my name, counsel for the company. And with me is H. P. Crawford.

THE CHAIRMAN: The procedure we have been following, Mr. Delamere, is to read the brief in its entirety, and then after you have finished reading it, you subject yourself to any questions which the members or counsel may see fit to direct at you.

MR. DELAMERE: Yes.

THE CHAIRMAN: You may sit down if you prefer.

MR. DELAMERE: I think I feel more comfortable on my feet, thank you.

(Reads entire brief)

THE CHAIRMAN: Thank you very much. Now, gentlemen, you have heard this brief so ably presented. We will follow the usual pattern in considering it. I would ask the Members of the Committee if there are any questions arising out of what is said on page 1 of the brief.

MR. WREN: The 16,500 employees you have, are they covered by several or by one particular union?

MR. DELAMERE: They are in fact covered by

two agreements. The employees at Port Colborne are covered by one, and represented by a separate local of Mine and Smelter workers. The other remaining employees in the Sudbury district are covered by another agreement, with a different local of the same international union. The practice has developed that negotiations were for awhile definitely joint negotiations. They now take place at the same time in the same room, but the two locals maintain their separate positions. In fact there is one series of bargaining, and when some item has particular application in the Sudbury area or the Port Colborne area, it is dealt with at the same time.

MR. WREN: Is there anything in this union having Communist domination?

MR. DELAMERE: Mr. Chairman, I am afraid I must ask for protection on those things. I am here representing the company in the presentation of the brief.

THE CHAIRMAN: You may sit down.

MR. DELAMERE: I think that any comment that might be made with respect to the organization with which we are required by law to deal and with which we do deal, any expression of opinion as to their position or anything else would be not desirable. And I am not suggesting that there is anything to criticize in their behaviour.

THE CHAIRMAN: Thank you very much. We do not wish to put you in any embarrassing position at all. Is there anything else on page 1?

MR. MEAUTE: I want to ask you this: Is there any effort being made by any other union from the outside presently in trying to get a foothold in the company?

MR. DELAHERE: So far as I am aware, no. There have been times, from time to time throughout -- well, since 1943 was the beginning. All these matters have been resolved.

MR. MEAUTE: I heard of raiding --

MR. MacDONALD: If this is not an extraneous question, I don't know what is.

THE CHAIRMAN: I think it is perfectly proper. There have been allegations of raiding plants by one organization or another.

MR. MacDONALD: I shall bear in mind your prior definition.

THE CHAIRMAN: As long as you bear it in mind, but do not distort it as you usually do.

Now, we will get along, gentlemen. Anything further on page 1? Page 2, "Definition". Anything arising out of page 2, gentlemen? Page 3?

MR. MacDONALD: Mr. Chairman, at the bottom of page 3, the submission is to make a recommendation in regard to maintaining the Act as it is with the

exclusion of certain categories. Some of these categories I do not think are normally of particular concern to International Nickel. I am just a little curious. For example, exclusion of horticultural workers has now resulted in the exclusion from bargaining rights under the Act of a group of employees that may number sometimes 15 or 20 of a nursery company -- a big nursery, and therefore, under any normal definition of labour management relations, these people are in the category of employees.

To state another example, experience has now proven exclusion of horticultural workers excludes bargaining unit of the people who work in the nurseries of pulp and paper companies because they are not workers, they are horticultural workers.

I am just raising some arguments on the other side as to why conceivably some of these things should not be left the way they are. Is there anything in your experience that suggests horticultural workers should be kept with the present definition?

MR. DELAHERL: Our horticultural workers are definitely of a professional class only.

MR. MacDONALD: Yes.

MR. DELAHERL: In that sense, I think these representations are made because the people we consider as horticultural workers are in the same classification as professional men.

MR. MacDONALD: They would be covered in your representations elsewhere as professional?

MR. DELAMERE: If the provisions are widely enough defined to take in architectural, legal, medical and dental -- but they are definitely in the same class. They are persons who are engaged in research with respect to various agricultural matters and horticultural matters. This is not intended, in a case of this kind, to exclude any person who is raking a garden, for instance.

MR. JACKSON: You are excluding merely here all office workers?

MR. DELAMERE: Yes, we feel office workers' interests are somewhat different.

MR. JACKSON: And anybody in the plant, say, a foreman?

MR. DELAMERE: Again it is difficult to define the exact breaking point. Numerous attempts have been made in the Act to arrive at a satisfactory definition. I do not think there is any reason to complain in the application of this by the present Labour Relations Board except with respect to certain of these specific items which we mention.

MR. JACKSON: Don't you foresee a great deal of confusion arising out of section (d) on page 3?

MR. DELAMERE: No.

MR. JACKSON: Who is going to decide

whether an employee is in a confidential capacity or not?

MR. DELAMERE: I would say that could be easily determined by answering the question: "Is this individual in effect the hand, the mouth, the ear, or the eye of management?"

MR. MacDONALD: In practice at the moment the decision as to whether or not they are really in a confidential capacity is a decision of the Labour Relations Board.

MR. DELAMERE: It is the decision of the Labour Relations Board, but it is the decision of the Labour Relations Board on the exclusion -- or it is limited to confidential in respect to matters affecting labour relations.

I think there is great justification for going further than that. If these individuals are in fact, as I say, the hand, eye, mouth, the ears of the employer, they are in effect management.

MR. JACKSON: Isn't everybody in the plant one of those things?

MR. DELAMERE: No, I do not think so. I think there has to be reason in all things. There is reason in all things good.

MR. MacDONALD: There is reason in the matter of judgment of the Board.

MR. DELAMERE: I have no complaint in that

respect.

THE CHAIRMAN: Anything else?

MR. MacDONALD: If I may return to the office worker. If I understand your representation here, you want to make it mandatory that the office worker must be in a separate union?

MR. DELAMERE: Yes, I think you should.

MR. MacDONALD: Now, is your feeling on this so strong that it should be made mandatory to the point even if the office workers themselves want to become a member of the general union they should be denied the right?

MR. DELAMERE: They can become a member of the general union under a different local, which may well be able to serve their interests much better than joining that local that represents the plant.

MR. MacDONALD: They end up by negotiating jointly.

MR. DELAMERE: No, I think it unlikely they would end up negotiating jointly, for I do not think their interests are likely to coincide sufficiently to justify combining.

MR. MacDONALD: They end up negotiating jointly in the way you negotiate jointly in your two locals.

MR. DELAMERE: That is a matter of agreement. If it were appropriate to do so, I see no reason to

prohibit it.

MR. REAUME: Actually there are plants or companies throughout the whole of the Province where office workers are in a union of their own, separate from the one in the plant.

MR. DELAERE: I was going to mention that, but I think you should investigate the background of how that occurred.

MR. REAUME: How it occurred?

MR. DELAERE: Yes.

MR. REAUME: How did it occur?

MR. DELAERE: You put me in rather an embarrassing position. I do not like to criticize. Let's put it as a matter of tactics.

THE CHAIRMAN: Anything else on page 3, gentlemen? Page 4?

MR. MacDONALD: Mr. Chairman, the problems raised here in terms of people who may have a particular responsibility in certain mining communities for water. Can you give me an example of this?

MR. DELAERE: I can't give you chapter and verse, no. I know it has occurred, where the employees of a particular company,which in effect was the community, have gone on strike and that community has been left without -- or the threat has been there -- of leaving it without power, electrical power and water.

We do not say in this brief those persons

should be denied the right to join; we say there is ample justification for suggesting that they should be in a separate bargaining unit so that it is not necessarily automatic that they walk out with the production employees.

MR. MacDONALD: Or alternatively, could that not be a matter of agreement between the two parties? In some of our unions on occasion there is the agreement that certain maintenance staff will stay in.

MR. DELAMERE: Well, Mr. MacDonald, this is something which we in International Nickel have unfortunately had some experience.

MR. MacDONALD: You want to make it mandatory?

MR. DELAMERE: I have been engaged in this matter for some time, and I have heard circumstances where the attaining of those agreements in the heat of a prospective strike is very difficult to obtain. It is not something that should be left to the last moment when tempers are hot, and that sort of thing.

THE CHAIRMAN: Anything else under this heading on page 4? Page 4, "Principles". Page 5. Page 5, "Rights". Continued on page 6.

MR. JACKSON: We have had this question before -- freedom of speech -- on the question of the employer. It was brought up by one of the Committee. The employer is in a much better position probably to

coerce or influence the thinking of the employees than the union. He has the power. I am speaking now of the primary stages of organization.

Do you not foresee any problem there by just saying everybody has a free right? How would you control it?

MR. DELAMERE: Mr. Jackson, I can only say this: I think there is fallacy in the way it is approached. At one time undoubtedly the employer was in a position to intimidate. We are not suggesting in any way that this would justify intimidation or coercion in the ordinary meaning of those words.

We are suggesting that there is a misunderstanding very widely held that employers are virtually muzzled and cannot say anything. That is not good for good labour relations.

This is a matter that should properly be discussed. We are not suggesting anyone should be allowed to intimidate employees; either the union or the employer.

I come to this point: the growth of trade unionism and the strength of trade unionism over the last few years -- and when I say "few years", I suppose it is a good many years now -- has been spectacular.

The publicity that is used by trade unions is, I am satisfied, the equal or better than any publicity that is available to employers. I think the

scales are more than balanced. They were not at one time.

There is no suggestion this should justify, or the right of free speech should justify coercion, but healthy discussion is another very different thing.

MR. REAUME: I want to straighten out one point. In the early stages or organizing, the organizer of the union has the right to go from house to house if he wishes, and to talk over this matter with the persom whom he wants to sign the card. Now, has the employer any rights at all? Has the employer the right to speak to a man about it, even on the street, in his own home, in the office, or any place at all?

MR. DELAMERE: I think, subject to correction by the Labour Relations Board, he has in the present legislation.

MR. REAUME: He has or has not?

MR. DELAMERE: He has.

MR. REAUME: I always thought he has not.

MR. DELAMERE: I think he has providing he does not intimidate. However, I think there is sufficient question under the present legislation to justify its clarification.

MR. REAUME: It is not clear.

MR. DELAMERE: It certainly is not clear.

MR. JACKSON: What is your opinion about paragraph (6)? That has been suggested before too. Do you not foresee a great deal of appeals there? The

courts are cluttered now, and you find it hard to get a magistrate and so on.

MR. DELAMERE: Mr. Jackson, I can only say that the company is optimistic that labour relations will improve. I am personally, in all sincerity, of that frame of mind. As in all our other every-day affairs, our contractual obligations, our responsibilit to our fellow man and our Government. This has been the representation that has been made by International Nickel Company right from the beginning of labour relations in the Province of Ontario -- I mean modern labour relations, which dates roughly from 1943. That representation has been continuous, and we still think it is right.

After all, bargaining for the services of people, -- leaving out personalities for the moment-- is like bargaining for every other commodity. We don't fight the clerk in the department store because he wants to sell us the most expensive shirt with the least quality -- which is probably in his interest -- and we don't expect him to fight with us. There is a difference between every buyer and every seller, but we see no reason why eventually that should not come to a more or less ordinary transaction which is no more heated than the purchase of a shirt. I may be idealistic, and I know it is.

MR. WREN: You feel unions should be legal entities so they can --

MR. DELAHERE: I am afraid at this point I must ask for a ruling not to answer that at this time. I am here representing The International Nickel Company of Canada Limited. They have not chosen to make any representation to you on that subject. I may have personal opinions on the matter which I would be prepared, if you think it would do any good, to submit to you at another date so that it could not be confused with the opinions and representations of my client.

MR. WREN: Can you say as far as you know your company has no opinion?

MR. DELAHERE: I won't say it has no opinion. I say it does not wish to express an opinion at the moment.

MR. MacDONALD: Coming back to the other point -- I think Mr. Jackson raised it -- if I understand your representations earlier in the brief, you know very clearly that any appeals that have been made now are when the Board has exceeded its jurisdiction?

MR. DELAHERE: That is right.

MR. MacDONALD: Are you in effect saying you want the right of appeal when it is within the jurisdiction of the Board?

MR. DELAMERE: No. I take it you are referring to item (6) on page 6?

MR. MACDONALD: Yes.

MR. DELAMERE: Going back to the Labour Relations Board which did a splendid job in the short time it operated, and succeeded in creating a fair amount of order out of what had every chance of turning into chaos, we still believe it would be desirable that these matters should be determined by a judicial body rather than by an administrative body. This does not involve appeals. There is no suggestion there should be appeals. It would be decided and have recourse to an impartial judicial body. We are not discussing here appeals in any way.

MR. JACKSON: The same thing.

MR. DELAMERE: No.

MR. MACDONALD: In other words, you prefer a strictly judicial body rather than --

MR. DELAMERE: I don't say part of the normal judicial structure of this country, but it should be a judicial body rather than administrative.

MR. MACDONALD: The point is, and I thought I had it clear is that the Labour Relations Board be a quasi judicial body.

MR. DELAMERE: Yes, quasi, but its duties are largely judicial. In some matters it acts in a judicial capacity.

MR. MacDONALD: But if you were to make the Board a judicial Board, and of course if you took the other step which you now say, you aren't really wanting, it should not be the primal body for deciding within the jurisdiction, but there should be the right to carry on into the civil courts --

MR. DELAMERE: I do not say we don't want it. We have not made representations for that. There are advantages and disadvantages in the field.

MR. MacDONALD: The reason why I raise the issue: experience leading to establishment of the Ontario Labour Relations Board was in discovering in such conflicts as labour-management relations, if you deal with it in an ordinary legal fashion, judicial fashion, you ended up with more industrial strife rather than less.

MR. DELAMERE: That was not my understanding.

MR. MacDONALD: That certainly was the understanding of the legislators of today and they set up the Labour Relations Board.

MR. DELAMERE: I suggest at least one of the factors involved in that was the overloading of the existing judiciary. I want to make it very clear this suggestion is that the recourse should be to a judicial body. It makes no representation with respect to appeals.

MR. MacDONALD: In effect you want the Labour Relations Board changed. You do not consider it is a judicial body. You consider it is an administrative body.

MR. DELAMERE: Well, the recent decision, I think, of Mr. Justice Roach in one of these cases points out most clearly that the reference to employer members and employee members of the Labour Relations Board was a misnomer and should be corrected; that they are all independent and impartial, or should be.

THE CHAIRMAN: Page 7, gentlemen. "Application of rights".

MR. WALL: If you could enlarge a little on the last sentence, first paragraph, page 7, where you say, "The interests of unions in these activities and the attainment of these objectives should not be considered as calling for special rights.."

MR. DELAMERE: All I can say is that unions are undoubtedly entitled to certain rights that will enable them to effectively carry out their duties, their duties being to act as the mouthpiece of the employees in exercising the employees' right to bargain directly. Interests which the unions may have outside of their function of representing and being the mouthpiece of employees, are interests which do not justify the granting of rights under

labour relations legislation. They are not in those functions acting as the representative and mouthpiece of the employees in making effective the employees' right to bargain collectively with their employer.

The point we wish to make here is that unions are the agents of the employees. It is the right of the employees to be represented by a union; not the right of a union to represent employees. It is the employees we are trying to protect.

MR. WALL: I was thinking of and am interested in a situation that has developed in the last few years where we have a check-off in a great majority of industry where the unions themselves have set up within the union a compulsory check-off portion of union dues for other purposes.

Management and a great many of the members themselves object to this check-off of union dues, coming in essence as a compulsory check-off without taking into consideration the prime wishes of the employees themselves.

Now, the question arising out of that is this: do you feel with your experience, your company's experience in that field, if the political check-off is taken away from the field, the area of human fluxion of view, do you think that would be more beneficial to accept the voluntary check-off?

MR. DELAHERE: Now, you are asking for my personal opinion.

MR. MEN: Well, that is all right.

MR. DELAHERE: I would ask that I be not asked my personal opinion here today. I volunteered if you wish, I will attend at a later date, when my personal opinions will not be confused with the opinions of my client, and I think that is only fair.

THE CHAIRMAN: I think so.

MR. MacDONALD: I think this is a matter of keeping the record straight. In an institution where there is check-off of union dues, and this union subsequently decides a portion -- a very small portion -- is to be used for any purpose, including political, that is their decision. That very small proportion that may be used that you are not happy about, and you are arguing that the whole principle --

THE CHAIRMAN: Whatever the contribution may be it does not appear to have been too successful.

MR. MacDONALD: In the fullness of time. If it is as big as Mr. Reaume suggests.

MR. REAUME: I said even though it was small.

THE CHAIRMAN: Order. We are on page 7, dealing with "Application of Rights". Anything else on that? Page 8, "Exercising the Right". (b) The Bargaining Unit. Page 8. Page 9, Page 10.

MR. WREN: I gather from the trend of your remarks here that you are in favour of craft unions?

MR. DELAMERE: No, I am not. I did not say that I am or I am not. When I say "I" I mean the company. If you refer to page 10, there is a statement there "that a unit of employees including both employees belonging to a craft and others who do not belong to such craft, may be appropriate for collective bargaining" and second, "that a unit of employees including only those employees belonging to a craft may be appropriate..."

MR. WREN: What I am getting at --

MR. DELAMERE: It is a matter to be determined in each particular case. The major point in this representation that we are making here is -- and it appears in item No. 5, "that the extent to which the employees of an employer have organized in a union or have failed so to organize should not be considered as affecting in any way the question of whether or not any particular unit of employees is appropriate for collective bargaining". We tried to explain that in the earlier part.

A union applying for certification to put in their application which requires them to suggest a unit which would be appropriate, and put in their application a unit in which they had strength, and

exclude from that unit portions or groups of employees among whom they do not have strength, thereby attempting to guarantee the certification to represent the unit they have applied for -- I submit and the company submits the question of whether certain employees are or are not members of a union is not relevant as to whether the unit should be certified by the Board. That is a matter of happen chance, but the determination of whether something is appropriate or not is a matter for much more mature consideration.

MR. WREN: I am suggesting perhaps the theory that an employee should first seek to vote as to whether or not they would have a union at all, and then after that have a second vote to determine which union they will have.

MR. DELAHERE: I am not suggesting that in any way, shape or form.

MR. WREN: That is not in your brief?

MR. DELAHERE: No.

THE CHAIRMAN: Page 11.

MR. MacDONALD: This argument that if a man chooses a union he does not necessarily want the union to bargain for him collectively; there may be a certain element of logic in it, but it seems to me it would leave you in the position, if you are going to follow that, of examining the motive of every single person who joins the union, to find out

if he joined 90 percent because he wanted collective bargaining, and 10 percent for welfare, and you get yourself in a terrible mess.

MR. DELAMERE: Very simple matter.

MR. MacDONALD: You mean the vote?

MR. DELAMERE: Yes. And that, I may say, has been followed by the Labour Relations Board recently in certain west coast operations involving shipping matters. On that coast there are a great many closed shop agreements. The Board was convinced apparently that it was in order to vote; that many persons who had joined unions solely to have a union card in their pocket so that they could apply for jobs if they were fired from their present jobs or wished to leave their present jobs. In other words, the union had tied up the market for seamen to such an extent that it was virtually impossible to get a job without a union card, and therefore the fact that you held a union card did not mean necessarily you wished the union to bargain for you with your present employer.

MR. MacDONALD: That argument has validity only where there are closed shops. Closed shops are in relatively small proportion of the over-all trade union field. Let me put it this way: Is the implication of your argument that we should throw out the present specifications in the Act that if there are 55 percent or more they can be certified

without a vote?

MR. DELAMERE: There would obviously have to be some protection to avoid the frivolous votes. My suggestion is that no certification should take place without a vote, for it is the only way the Board can determine --

MR. MacDONALD: In all circumstances?

MR. DELAMERE: In all circumstances.

MR. MacDONALD: This has been a proposal made before.

MR. DELAMERE: This is of academic interest to the company. They have certification. The company is trying to be helpful.

MR. MacDONALD: If you have a vote, vote in every case, you are just building up the administrative load that is going to overburden an already overburdened board.

MR. DELAMERE: I think unions are in favour of votes when there is a jurisdictional dispute as to change in representation.

MR. KLAUKE: Oh, yes.

MR. YARMKO It was only yesterday we had representatives from the Co-operative Commonwealth --

THE CHAIRMAN: That was a good one.

MR. YARMKO: On this point they seem to have been in agreement with you.

MR. DELAMERE: I didn't know it.

MR. YARLEKO: I am going to quote from their brief on page 5. They say: We submit that the number of employees who are members of a trade union applying for certification is not a question that the Board ought to be asked to determine. The only relevant question is how many employees want the union to represent them in collective bargaining with their employer."

MR. DELAHERE: My attitude is identical to that.

MR. YARLEKO: Except that they did not suggest that there be a vote in all cases. I assume from interpreting theirs, if they would present a petition to the Board, signed by various percentages of the employees, that would be sufficient.

MR. DELAHERE: That is where our opinions diverge.

MR. MACAULAY: They may want to re-write that now that you have pointed it out.

MR. MacDONALD: There is some common ground.

MR. DELAHERE: You can find some common ground in practically any community.

MR. YARLEKO: If you will, the goal of the union is to eventually have all the employees for whom it is bargaining become members of that union.

There is a question, whether there is not some merit that on the original application they should indicate a certain percentage. Certainly a percentage are already members of the union.

MR. DELAMERE: I think, if I may repeat myself, we must remember that it is a right of employees -- not of unions -- a right of employees to bargain collectively with their employers through representatives of their own choosing. The union is nothing more than the agent and mouthpiece of the employees. The rights which should be accorded to trade unions should be commensurate with their position and their function.

If they choose to go into business outside merely because they are a trade union, I cannot see why they should enjoy special privileges. They may have to be given certain rights in order to effectively carry out their role as agent and mouthpiece of the employees, but there it stops. That is our attitude.

MR. MacDONALD: What other right are you objecting to? I see the basic point you are making, but what other rights are you objecting to that the unions now have?

MR. DELAMERE: I am merely trying, and the company is merely trying to give certain principles to this Committee on which they will exercise their own good judgment, having regard to those principles as to what rights should be given.

MR. MacDONALD: There is no specific right the unions have now which is not necessary for their initial basic function as a bargaining agent?

MR. DELAHERE: Yes, I think their rights which they enjoy under contracts are not necessary. Check-off for one.

MR. MacDONALD: Well now, we are getting to the point. If organization is going to be effective, no matter what it is-- jurisdiction-- financial stability is a very important factor. Check-off is just a means of facilitating that.

MR. DELAHERE: Whether it is to be or is not to be effective organization is to the interest of the employees I take it we are not here to set up trade unions just to set up trade unions.

We are setting up trade unions, or giving them privileges or rights to enable them to carry out the wishes of the employees that they represent. Now, if the wishes of the employees are such that they want that organization to be strong financially, the employees are perfectly entitled to contribute, and it may be that an employer, as we have done, will consider it in the best interest and in the interest of everybody, with the approval and written consent of the employees, to give them part of the employees' pay. That is something that is a matter of contract.

MR. MacDONALD: Your objection is strictly in the law?

MR. DELAMERE: That is it exactly. I do not say there is anything wrong with it as a matter of contract, although there is some doubt under the present legislation where the Act provides an employer shall not contribute to the financial support or assist the union.

Now, where it has been raised in argument -- I don't think a great deal of attention was paid to it -- that the carry through of check-off was giving financial aid to the union. It is in effect. It is absorbing the cost of collection, and it costs the company something although it may be a negligible sum. That is why we suggest the Act be amended to cover that point.

MR. WREN: You suggest the company, in facilitating check-off, is in essence violating the law?

MR. DELAMERE: I don't say that. I say it has been suggested. I don't think much attention was ever paid to it. We do suggest, however, to avoid any misunderstanding the law should be changed to permit that they would not be.

THE CHAIRMAN: Permit that on the written authorization of the employees?

MR. WREN: Voluntary check-off made

lawful would correct that situation.

MR. DELAMERE: It would not correct that situation. It would create an entirely different situation, and that is what we point out in our brief.

MR. YARMKO: Mr. Delamere, in regard to the check-off, if an employee signs a statement to the employer that he wishes his dues deducted from his pay, and subsequently the union increases his dues, is a new authorization obtained?

MR. DELAMERE: Oh, yes, it must be. It is the employee's money. It is not the company's money.

MR. YARMKO: Whenever there is some change?

MR. DELAMERE: Oh, there must be, unless the employee signs an authorization to the effect "I wish deducted the amount certified by the union as being the monthly dues from time to time". If it is a specific amount, the company has no authority to pay out the employees' money to anybody else beyond the authority of the employee.

MR. MacDONALD: I think in some instances it is put in those terms.

MR. DELAMERE: In some instances it is.

THE CHAIRMAN: Anything else on page 12 and 13, gentlemen? (d) Collective Bargaining.

MR. MacDONALD: In the last part of the Collective Bargaining section, the Committee was encouraged to note that the representations expressed the view there should be a continuity of collective bargaining rights.

The final sentence poses a question I would like to put to you. It seems to me what we want to try to do is not have Government intervention unless it is necessary. The less intervention in free labour-management relationship the better.

What conceivable reason is there why the law should specify the maximum term?

MR. DELANEY: We are trying to practise what we preach in this brief -- in other words, preserving the balance. If one union were entitled to have a contract which could not be attacked --

MR. MacDONALD: No, I mean at each year.

MR. DELANEY: That is what we are objecting to: this provision at the end of each year. The last two months -- the eleventh and twelfth month of every year is open season for two things. The employer is required to bargain with a group that are presently certified, and the employees, at the same time, may be in the process of changing their bargaining agent. Those two coincide with very unfortunate results on a number of occasions.

The employer is faced with the position

that he is required to bargain with group A, which he knows, or has reasonable grounds for suspecting, will cease to represent the employees within a matter of days. But he has got to sit down and bargain under our law. Those two periods coincide.

MR. MACDONALD: You say a maximum term should be prescribed?

MR. DELAMERE: It depends on how the amendment is made. If the amendment were made to precede that, the existing collective agreement should continue until its termination date. It is obvious that would be open to abuse if the termination date were made too long. This is an attempt to balance the justice.

So there would be no misunderstanding, we are not suggesting we will make an agreement for ten years and then say nobody else can come in there and employees cannot change their bargaining rights or the agreement must continue for the full ten years.

MR. MCNAUGHT: All these unions are in one way hoping to stop this business of raiding. Would that not do away with the possible chances of an outside union? I am not saying they will stop raiding, but if they were to? I am just mentioning the fact that unions are in one family, happily married.

MR. DELAMERE: I have seen some awful

family fights.

MR. BEAUDIN: If they do stay married, and are happy, there will be no more of this business of raiding.

MR. DELAMERE: I quite agree, but I doubt if we are justified in saying that will inevitably be the case from now on.

THE CHAIRMAN: Page 15. (2) The right of employers to exercise effectively the functions of management.

MR. MacDONALD: There are no specific proposals here. It is submitted as a general guide for our consideration.

MR. DELAMERE: If we had attempted to make specific proposals on all the things that might have been raised in this brief, you would still be listening or my voice would be worn out.

We attempted to give this Committee what we believe are basic principles, and we hope legislation will follow sound basic principles, and not sort of a shot-gun affair where principles are completely forgotten and the legislation is merely to correct one obvious wrong, and then another obvious wrong with no principle background.

MR. MacDONALD: Apart from one you have already specified, alleged freedom of speech on the part of management, is there any other basic right of

management that you think either in the existing Act or its application is being violated?

MR. DELAMERE: Well, Mr. MacDonald, I don't know what the opinion of this Committee would be, and I have tried to read most of your proceedings. I have not succeeded in reading all of them. I do not know what presentations have been made or will be made to you. I am putting this forward, that you have, in proper legislation, to consider the rights of all parties -- not just one.

MR. MacDONALD: Thank you.

THE CHAIRMAN: Page 16. The right of both employees and employers to require responsibility and fair conduct on the part of the other. (a) Intimidation.

MR. MacDONALD: Mr. Chairman, I have one question here that seems to me the key question in dealing judicially, whether or not the union should try to stop people from going into a plant when there is a strike. It seems to me the problem boils down to the issue of violence that arises, or usually arises, when the company attempts to replace the previous bargining unit by bringing in new workers.

Now, would you be willing to condition your proposal that there would be a prohibition of --

MR. DELAMERE: No.

MR. MacDONALD: That the Act should specify

nobody could be stopped from going in except under the conditions of an effort on the part of the company to replace the existing bargining unit by bringing in what is known as scab labour?

MR. D'LAMLRE: No, Mr. MacDonald, I would not, and the company would not. I give you this example. I do not know whether you are one of the lucky ones or not, but supposing you have a cook, and your cook comes to you and says "I want more money", and you say, "No, I can't afford it," or "you are not good enough", or whatever reasons you may choose to give, and the cook walks out. Are you suggesting you should forever thereafter be barred from hiring a cook?

MR. MacDONALD: Yes, he is.

MR. D'LAMLRE: I think that is absurd.

MR. MacDONALD: You reduce it to absurdity by the analogy you draw. If I may be permitted to pursue this. Under the Act, even if a group has gone on strike, if they have gone on strike legally, they are still under the Act a legal bargaining unit. If you are not willing to accept this proposal --

MR. D'LAMLRE: Excuse me. They are not a legal bargaining unit. No person is a legal bargaining unit, and no group of employees is a bargaining unit; that may change from day to day. New employees that may come in may constitute a unit of employees that the

union is entitled to represent.

MR. MacDONALD: At that moment this is a legally certified bargaining unit.

MR. DELAMERE: No, it is not. There is no bargaining unit that is certified; there is the union. It is the bargaining agent that is certified; there is no certification of the unit.

MR. MacDONALD: O.K. You are substituting a different phraseology, and I am willing to accept that.

MR. DELAMERE: I am using the terms of the Act.

MR. MacDONALD: Accepting your phraseology, the import of your proposal is to grant management the right to legally destroy that existing bargaining unit?

MR. DELAMERE: Well, it is a question whether when someone runs into a brick wall in an automobile, whether the brick wall destroys the automobile or the automobile destroys itself.

MR. MacDONALD: Maybe there is no point in arguing.

MR. DELAMERE: When either party in labour relations resort to what is commonly referred to as economic sanction, they must recognize they do so at their own risk.

MR. HEAUME: What do you mean by "the

employer and his agent"? Who is his agent?

MR. DELAMERE: Not necessarily agents. Any person he may wish to appoint or give permission to go in.

MR. REAUME: I am just wondering if you are going to the point of right to work. If a person was out on strike and wanted to go back in the plant to work, would that person be an agent of the employer?

MR. DELAMERE: Yes, you could consider him as agent. "Agent" is not used in this sense in the way it is used in legal phraseology I am afraid, that a right of way is granted to the owner of certain property.

MR. REAUME: Well, of course, following along that line, we have thousands of agents who could come in from outside or any place.

MR. DELAMERE: Certainly, and that is the risk that any person who calls a strike must be prepared to take.

MR. REAUME: Well then, in effect, getting back, you are taking the right to strike away from the union?

MR. DELAMERE: No, not a bit. Any group that wishes to withdraw their services is perfectly entitled to do so under our present legislation, and I am not suggesting a change, but they do it at their

own risk.

THE CHAIRMAN: Order, order.

MR. RAUME: You are giving them the power to break it up.

MR. DELAMERE: If it was your proposal that the union shall be provided with a weapon and all the defences against that weapon shall be removed -- that is what I understand you are suggesting.

MR. RAUME: Exactly not. What I am trying to do is to put some formula of equality into the operation of the Act. I say if you are going to allow or give certain people the right to go out on strike and then in the very same breath give the employer the right to break it up with any means --

MR. DELAMERE: Well, just a minute. You are denying the employer the right to employ other persons if they are willing to be employed under the terms he is willing to offer. You are in effect saying because your cook leaves because you won't pay more, you are thereafter barred from hiring another cook. That is what it comes to.

MR. RAUME: I think what it comes to is this: the company now has the right to go out and hire scabs for the purpose of coming to work and taking the jobs away from people who have an argument; who have a grievance.

MR. DELAMERE: If you wish to put it that way.

MR. BEAUME: I say you are putting it that way. Aren't you?

MR. DELAMERE: No, I am saying if you wish to put it that way. That can be drawn from these statements.

MR. BEAUME: I am asking you if you are putting it that way.

MR. DELAMERE: I am. The employer has the right to hire other people to do the work if these people choose to take the position they refuse to do the work under the available conditions.

MR. MacDONALD: Mr. Chairman, this is one of the things this Committee is going to be called upon to rule on. I wish we could get this sorted out. This specific question arises from the fact you cannot implement it; you cannot implement it because it is a preposterous suggestion that he should give the right to management to in effect say to a group of people, people with forty years' work in that plant, you are going to give management the opportunity to say "We will starve that union and you will be out forever" because they are out on strike and they have done so legally.

It seems to me there are obvious elements of great injustice in your proposal, and clearly it

is going to develop in more industrial strike and industrial unrest.

MR. DELAMERE: I don't agree.

MR. MacDONALD: The Criminal Code would be implemented, but the Criminal Code has not been implemented because it would make the situation worse.

MR. DELAMERE: Mr. MacDonald, I have said many times here the company is optimistic that labour relations will improve. It is putting to you this proposal that labour relations are not likely to improve if a weapon is given to one party and the other party is precluded and prevented from defending itself from them.

MR. MacDONALD: We will leave the matter there. You are not going to improve labour relations if you, by your proposal, put in the hands of management the right to destroy the union.

MR. DELAMERE: Mr. MacDonald, do you think any management in its right senses wish to dispense with all its employees? No organization, no commercial organization, can survive if it does.

MR. MacDONALD: I can cite you an example: Canada Vitrify Products, which has really done just that.

MR. DELAMERE: I don't know. From the reports one reads it is significant that they are

always, or generally -- let us put it -- statements from one side or the other. In labour relations I think one thing we have to learn is that before we believe or understand or attempt to pass judgment on any set of facts, we should know who told us the facts, what interest he had in telling us the facts and what his bias was.

MR. YARLIKO: Mr. Delamere, perhaps you can assist me. Wouldn't Mr. MacDonald's proposition change the whole definition of a strike?

MR. MacDONALD: Sure it would.

MR. YARLIKO: From a stoppage of work to a compulsion of stopping of production?

MR. DELAMERE: Exactly. There is the only place I know, and I am subject to correction on this because I was only a visitor there -- I was not there in a professional capacity -- but I believe in Mexico under one regime that has since passed, such legislation was put into effect, and I think theresult was exactly as you have put it.

MR. MACAULAY: It cannot help but be. You have said the man cannot produce again until such time as he takes those employees back and can take no others.

MR. DELAMERE: That is it.

MR. MACAULAY: Now, my friend has said, and I have tried to point this out to him before, and I think I am right, Mr. Delamere, in saying when a strike is held it is either a strike or it is an illegal strike. There is no such thing under our Act as a legal strike.

MR. DELAMERE: It is purely permissive.

MR. MACAULAY: Right.

MR. DELAMERE: Our Act takes off the restraint against strikes at a certain place. There is nothing in our law that gives sanction to a strike, or if there is, I suggest the implication should be removed.

MR. MACAULAY: I heard my friend say they have gone out on strike, and it is a perfectly legal strike.

MR. MacDONALD: Even Mr. Macaulay will argue while he has a minor point, in the practical world it is not going to be accepted at all. If it is not an illegal strike,under the normal circumstances it is considered as a legal strike.

MR. DELAMERE: There are gray areas.

MR. YARLKO: Wouldn't Mr. MacDonald's proposition be when a strike took place all that the union would have to do is

notify the employer, "As of nine o'clock we are going to strike", and they could go away.

MR. MACAULAY: Leave two pickets.

MR. YARMKO: They wouldn't have to leave anybody because the employer could not do anything.

MR. MACAULAY: And the men could all get new jobs and leave him there holding the bag.

THE CHAIRMAN: Gentlemen, shall we proceed to page 17, Collective Bargaining.

MR. MACAULAY: There are two sides in all these things. We have to try to weigh them. Mr. MacDonald presents his thoroughly and ably, but I was just thinking there was another side to it.

MR. DELAHERE: Quite definitely there are two sides. There are two parties -- in fact three.

THE CHAIRMAN: Page 17.

MR. MacDONALD: Mr. Chairman, it seems to me that the import of this report in regard to conciliation boards will avoid a great deal of conciliation work, and I am wondering if that is exactly what you want.

You say there are three kinds. One that takes into consideration justice and therefore

weighs both sides and recognizes there is justice, but it rules out the second category that may seek to get a half-way position without any consideration of justice, or you make a guess what might be acceptable without any consideration of justice. I don't know whether it is possible to examine conciliation board reports, but my suspicion is that there are a majority of them that lie in those categories.

MR. DELANEY: I have made some examination before preparing this brief, and I think the statements in this brief are correct on a fair examination of the Board.

It might be of interest to this Committee to know our own experience with conciliation. Collective bargaining started with International Nickel Company in 1944, and that year agreement was obtained by negotiating alone.

In 1945 -- one-year agreements until this coming agreement -- in 1945 the agreement was obtained with the help of a conciliation officer.

In 1946 agreement was reached before the conciliation board. No report except the parties had agreed.

In 1947 -- excuse me, there are interim negotiations which are mixed up in this table so I have to check it -- there was a

partial agreement reached by negotiation and the balance of the agreement was reached before the conciliation board issued any report. In other words, agreement was reached in the proceedings before the board.

MR. MACAULAY: In or because of the board?

MR. DELAHERE: I think to some extent because of the board, but there is a point in this brief I want to bring out. If the Board makes its report on the basis of merits of the case and substantial justice, presumably neither the employer nor the union wants to be pilloried on the ground that his position taken in the negotiations was not in accordance with the merits and substantial justice. That is a lever that the board has, and which makes it known to the parties it is going to make its decision on that basis as against the parties -- the party that won't see what is fair and just.

MR. MACAULAY: Are you suggesting it assists in coming to an agreement?

MR. DELAHERE: Yes, I think it does, because if the conciliation board carries out its duties properly, it will go from one party to the other. It will say, "Now, we are convinced that this and that are the facts of this matter, and

from those facts substantial justice would result in this." You say you are not prepared to grant that or not prepared to accept it, depending on which party it should be.

MR. MACAULAY: Do you think, having done that, it should go on and make findings on the merit which may not be any compromise -- sort of a judicial feature?

MR. DELAMERE: I think it should if it has fully and completely exhausted its first and primary function. That is, to get an agreement between the parties while they are before the board.

MR. MACAULAY: It may be there is an improper emphasis on the board, that they can become nothing more or less than a court.

MR. DELAMERE: I agree. That is why we are suggesting here some additional instructions be put in the Act as to the duties being performed by the board.

MR. MACAULAY: I think you know we have had people before us who felt conciliation boards might be done away with altogether.

MR. DELAMERE: I read Mr. Wood's brief with great interest. I can say we as the company, and I, myself, agree entirely with his conclusions. Our experience has indicated -- if I carried on with this you would see it -- that in only one case did

it come to a close call.

MR. MACAULAY: Close what?

MR. DELAHERE: Close call to a strike. In all other cases where there were boards, the board's report was finally the basis of the agreement. I don't say without some minor modification, but it provided the substance of the final discussions.

MR. MACDONALD: Your experience is somewhat unique. Not completely, but --

MR. DELAHERE: We take this position, Mr. MacDonald: we pride ourselves in trying to be independent about the matter.

THE CHAIRMAN: Gentlemen, it is now one o'clock. We meet again at two.

- - - On resuming at 2:00 o'clock.

MR. CHAIRMAN: Gentlemen, I see a quorum. We were on page 18 of the Brief when we adjourned at Noon.

MR. DELAMERE: Mr. Chairman, if I might I think I was referring to our experience with conciliation and going over what did happen. If I might very shortly review that.

In 1944 agreement was reached in negotiations. In 1945 agreement was reached before the conciliation officer or at conciliation officer stage. In 1946 agreement at Sudbury was reached at the Conciliation Board stage, while the Conciliation Board was still sitting; a settlement before the Board. At Port Colborne by negotiation. In 1947 a partial agreement was reached by negotiation and the balance at the Conciliation Board state. No report.

In 1948 agreement was reached at the conciliation officer stage. In 1949 was our first report which was finally accepted by the parties. In 1950 agreement was reached on negotiations. In 1951 agreement was reached on negotiations. In 1952 agreement was reached at the Conciliation Board stage. In 1953 agreement was reached by negotiation. 1954 Conciliation Board sat and reported, and the report was finally accepted by the parties.

In 1955, Conciliation Board, the settlement was reached at the Board hearing, with no report. In 1956 settlement was reached at the Conciliation Board stage, with no report; at least no report other than the formal report the parties had made, etc. That has been our

experience. I thought that might be of interest to you.

MR. WREN: You have had no strikes at all?

MR. DELAMERE: No, we have been very fortunate. We have had some minor work stoppages that could hardly be called strikes.

MR. MacDONALD: Well whatever the reason your experience has been pretty fortunate.

MR. DELAMERE: We consider it very fortunate. We hope as a result of an intelligent approach.

MR. CHAIRMAN: Anything else on page 18, gentlemen? Page 19?

MR. MACAULAY: Since there are two sides to all these things, it would seem that the other side was approaching it in an equally intelligent fashion.

MR. DELAMERE: I do not deny that at all.

MR. CHAIRMAN: Page 19.

MR. WREN: Page 19, second paragraph last sentence you refer to Section 26 of the Industrial Disputes Investigation Act. You say that a board's recommendations should be based on the merits and substantial justice.

Could this substantial justice be achieved by the Board of union concerned if it examined the employer's financial position at the time of negotiations?

MR. DELAMERE: I think that is a matter for the Board to decide. It would depend upon the attitude that the employer takes. If the employer does not plead inability to pay, I do not see that there is any justification for going into his financial statement.

MR. WREN: If he does plead inability what do you think?

MR. DELAMERE: If he pleads inability to pay then I think he has got to justify it before the Board or else be turned down.

MR. MACDONALD: Mr. Chairman on this amendment that is proposed here, and I am not accepting all the arguments for the moment that you advance in favor of it, it, in effect, would eliminate the other two kinds of Boards, those that have an educated guess as to what concessions might be made - -

MR. DELAMERE: I did not say an "educated guess , I just said a guess .

MR. MACDONALD: What worries me is since substantial justice is inevitably a matter of judgment, what purpose is achieved in putting in legislation? You can not be certain after it is in legislation that you have substantial justice.

MR. DELAMERE: The suggestion we are making is that the Board report facts and their opinion of what is substantial justice. Leave it open to the public or anybody who reads the report to draw his own conclusion as to whether the Board was right in their recommendations, but we have at least presented to the public the facts, which are probably the hardest thing to get to the public at this time.

MR. MACAULAY: You must agree the the Board's recommendation is only consistent with its belief. That

is the purpose of the Conciliation Board.

MR. DELAMERE: That is one purpose of the Conciliation Board. The first and primary purpose of the Conciliation Board is to endeavor to affect settlement.

MR. MACAULAY: Right.

MR. DELAMERE: It is only when that fails then it works on the second premise. The purposes are consistent and can never fight against one another.

MR. MACAULAY: However, one blames the other.

MR. DELAMERE: That is one of the places where I disagree with the arguments presented by Mr. Woods, Professor Woods. I do not think that he has made a case that there is conflict between these two things.

MR. MACAULAY: I was not referring to him. He is not the only person that holds that view.

MR. DELAMERE: I read his remarks with more care.

MR. MACDONALD: If you say that the first function of the Board is to affect a settlement -

MR. DELAMERE: If they can.

MR. MACDONALD: ---are you contending that that settlement should be in terms of substantial justice or just any kind of a settlement.

MR. DELAMERE: I suggest that that settlement will be tempered by substantial justice in this sense, that if the parties take the position that they refuse to settle on the suggestions which are made in the movements backwards and forwards between the parties, that the Board

makes, that if they refuse to settle on a basis that is fair and equitable and substantial justice, which is the only way you want to do it, they have to face the fact in the future these facts will be reported and people will be able to make up their own mind as to whether they were being reasonable or unreasonable.

MR. ROWNTREE: In fact, do you not think that the findings of the Board reflect the philosophy or the feelings of the people, or the parties concerned?

MR. DELAMERE: To some extent they do. That is one of the things I am objecting to and one of the things I am recommending that should be changed. The Board should report on the facts.

MR. ROWNTREE: Firstly.

MR. DELAMERE: Firstly, yes, and then what would be substantial justice having regard to those facts.

MR. ROWNTREE: Any argument about what constitutes substantial justice becomes a matter of philosophy does it not? It is a matter of philosophy?

MR. MACDONALD: Mr. Yaremko will have his views and some of the rest will have their views?

MR. DELAMERE: Yes, but at least we both have the same facts. It is something that I think is of prime importance.

MR. MACAULAY: With respect, I do not know. We hear the evidence of the Board and hear from you. It seems to me that if the purpose of appearing before a Board is to get out the facts with an end view to what

that Board will say are the facts so that public opinion and other opinion will not put you in the position of your opponent where he may have to ameliorate the stand taken, it seems to me that tugs against the type of representation you might be prepared to make where you all know the Board was not going to report at all on the facts.

MR. DELAMERE: That can very easily be overcome by the procedure before the Board. The Board makes rules if it chooses. The Board makes its own rules of procedure. I suggest it might be desirable in many cases to say the presentation of formal briefs will be delayed until we have exhausted our conciliation phase.

MR. MACAULAY: Can you conciliate if you do not have the facts?

MR. DELAMERE: The controversy does not generally turn on the facts. It is the interpretation of the facts that develops controversy.

MR. MACAULAY: How can you interpret something that you have not got in front of you?

MR. DELAMERE: They may have the facts, but the Briefs do not contain only facts. They generally contain inferences to be drawn from those facts.

I personally would much prefer that there be no Briefs presented before Conciliations Boards. That is a matter of personal opinion.

MR. MACAULAY: I will not press my view further other than to say that I was thinking more that what one

brings forward as a fact, or what facts are presented and the weight to be given to them quite often depends a great deal on what your purpose is in bringing forth the facts.

If your purpose is so that your best foot is left forward, as opposed to seeing that you try to conciliate, it seems to me you might produce a slightly different emphasis on the facts; if not different facts.

MR. DELAMERE: I assume that both parties would be attempting to put their best foot forward. It is in the second phase of the Conciliation Board proceedings that both parties would contemplate a report being made.

Prior to that phase being reached, I am assuming, and I think it is generally held, that both parties hope that they can arrive at a satisfactory settlement without a report.

That certainly has always been in my mind an intelligent approach to any Board.

MR. MACAULAY: We have both expressed our views. I think we each know where the other stands on it.

MR. CHAIRMAN: Page 20, Item 4, 'The Right of Employees to Require Responsibility and Fair Conduct on the Part of their Fellow Employees.'

MR. YAREMKO: Would a re-statement of No. 4 be that if a man who had been in the employ of a company for forty or forty-five years desires to return to work that he should not be intimidated or coerced into not going to work?

MR. DELAMERE: That would be one phase of it, yes.

MR. CHAIRMAN: Anything else on that topic? Page 21, Item 5?

MR. DELAMERE: Mr. Chairman, if I might point out the suggested wording there, subject only to the express restrictions provided there should be no-one who seeks by intimidation or coercion to compel anyone.

MR. CHAIRMAN: Page 22, Item 6?

MR. MACDONALD: Mr. Chairman in proposing "A", your proposal varies from present practice to what extent?

I mean the Chairman is now appointed by the Minister. He is not necessarily always chosen from the judiciary.

MR. DELAMERE: I suggest that he should, if possible, be chosen from the judiciary. I know and probably everybody here knows that there is a movement afoot to preclude the judiciary from taking those jobs. I think and the Company thinks that would be taking a step backward.

MR. MACAULAY: I would be interested in knowing why the judiciary would be better in dealing with this than a layman.

MR. DELAMERE: Well, I can put this forward in addition to what we have put in our Brief. First of all, their integrity is beyond question. That is one thing. Secondly, we speak of a grievance procedure here which is an interpretation of an agreement.

The judiciary are every day attempting to interpret commercial agreements, both oral and written. It is along their line. They are experts at it.

MR. MACAULAY: It seems to me, sir, that the words which are used are not necessarily of a judicial or a statutory type of interpretation. The words were intended to express the intent of the parties, and I think that can be sometimes better judged by one who has had a certain amount of experience either in the labour relations field, or has had some experience through it. With respect, I think the legal profession has become by its own training somewhat isolated.

MR. DELAMERE: That is a question of opinion.

MR. MACAULAY: Yes.

MR. MACDONALD: A refreshing if rather controversial view.

MR. DELAMERE: I might say my experience has not been in isolation from labour relations in the past ten or twelve years.

MR. MACAULAY: I do not think yours has been by any means. I do not suppose you are advancing your own appointment?

MR. DELAMERE: No thank you.

MR. MACAULAY: So therefore such personalities are not involved in it.

MR. DELAMERE: I would suggest only one question: Is there any better group from which you can draw?

MR. MACAULAY: Group? That is, you are assuming a pre-existing unit?

MR. DELAMERE: You must have a pool.

MR. CHAIRMAN: Shall we proceed to (b), 'The Ontario Labour Relations Board. ?

MR.MACDONALD: I think we have explored this earlier.

MR. CHAIRMAN: Yes. That brings us up to Page 25.

MR. MACDONALD: At the end of Page 25, Mr. Chairman, I do not know what the thinking of the legislation was in the first instance when this was made permissive rather than mandatory, but will you state any instance where if you make it mandatory you can conceive of solving anything at all?

We have had presented to this Committee, for example, the particular problem of say a company like that in Marmora, Ontario, where it is a subsidiary of an American Company. The negotiations were handled at the parent company level, and they conformed with the American requirements. Having come to a decision, which everybody involved agrees is going to have application in Marmora,they know, unless they come back and repeat the tedious and lengthy procedure in Marmora they are not legally - I have got to try to avoid your lawyer's interpretation of this word legal - their future actions will be described as illegal.

MR. DELAMERE: Are you suggesting to save time

and expedite matters, we should adopt whatever contracts have been negotiated in the United States?

MR. MACDONALD: What I am saying here is that I am a little curious to know why this was made permissive in the first instance as far as the Board is concerned.

The Board does not have to declare it an illegal strike. I am wondering if one of the circumstances which might make it wise to leave it permissive is the suggestion I have outlined to you, where, in fact, the whole procedure of negotiation had been held in another jurisdiction rather than the Ontario jurisdiction.

The Board does examine all the facts before it comes to a decision.

MR. DELAMARE: Mr. MacDonald you are speaking of something of which I have first hand knowledge.

The negotiations took place in the United States solely at the instigation of the Union.

MR. MACDONALD: Well, that may well be the case.

MR. REAUME: Is it the case, Mr Delamere, in the instance you have in mind?

MR. DELAMERE: Substantially so.

MR. REAUME: Does the instance refer to this company?

MR. DELAMERE: No, not this one. Nothing referring to this company.

MR. MACDONALD: My point is this: where negotiations have taken place in the United States and

have been agreed upon, is it necessary to make application to the Canadian segment of the company too?

MR. DELAMERE: If agreement has been reached and the employees go on strike, it is prohibited by the Act.

Is there any reason why the Board should not so state if the Board is asked to state that? Why refuse to make that statement? The public at large comes to the conclusion that the strike is authorized under our law when it is not in fact.

MR. WREN: If it is not treading on policy, or entering dangerous water may I ask the Deputy Minister if he knows why the Board is left with the discretion to decide whether a strike is legal or not?

MR. METZLER: I would not want to make any answer on that because I do not know. That is the way it is. In an application of this character it may be that the application will not be pursued.

It may be presented before the Board. The Board may endeavor to get the facts. It may recommend that they return to work while further negotiations go on. I could not give you an answer as to why it is permissive rather than mandatory.

MR. MACDONALD: I would like to make this one note of explanation. I am not predicating the point I am trying to make on this specific case. I am curious to know why it was left permissive in the first instance. There must have been some reason.

MR. DELAMERE: I am not a member of the Legislature. I can only interpret an Act by what is said in it. I think that is the only way the Board can interpret it.

MR. ROWNTREE: I think Mr. MacDonald's point was that by reason of the negotiations now being carried on in the United States by a subsidiary of an Ontario Company, if they do not conclude an agreement and the negotiations are at an end, that both the Company and the Union know that to go through the Ontario procedure would be useless. Technically, however, if they do not go through that procedure, they will be engaging in an illegal strike, although it is a technical illegality because they would have negotiated perhaps through a longer period of time eventhan our own Act states.

If they do not go through the routine of a conciliation officer or a Board of Conciliation, but proceed immediately to a strike, they would be technically engaged in an illegal strike.

MR. DELAMERE: Well, may I draw a parallel? A man might have committed an offence in Canada and the United States. He may be tried for that offence in either place. He may be tried in both places. Now, are we in Ontario giving up, or saying that a person who has gone through certain procedures in the United States would be relieved from the responsibility of obeying our law?

MR. MACDONALD: Nobody could take objection to that. I was using this as an illustration to try to

find out why it had been left permissive.

MR. DELAMERE: I do not think that is going to cast much light on it.

MR. MACDONALD: It may not.

MR. CHAIRMAN: Shall we proceed to Page 25? I think we have already dealt with this. Page 26? Page 27? Page 28 any questions?

MR. WREN: Are you suggesting here there should be a preamble to the Act?

MR. DELAMERE: I am suggesting that, or the Company is suggesting that as an aid to interpretation.

Every time an employer makes an application for certification he is sent a copy of the Act by the Department, very proplerly. The result is that this Act is interpreted probably more often by persons who are not lawyers than those who are.

I suggest it is of sufficient importance to give every possible aid in the intrepretation of this Act, particularly as has been contended before this Committee that the purpose of this Act is not the advancement and maintenance of favorable and harmonious relations but to encourage collective bargaining. That has been put forward.

MR. MACDONALD: I think that is a valid point.

MR. CHAIRMAN: Anything else, gentlemen? Mr. Delamere on behalf of the Committee, as Chairman, I would like to express our very sincere thanks to you for the very complete presentation that you have made.

You can be assured that this Brief will receive our very careful consideration when we come to make our report.

MR. DELAMERE: Thank you very much Mr. Chairman and gentlemen.

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RELIGION-LABOUR FOUNDATION BRIEF

MR. CHAIRMAN: Gentlemen, we are now to hear a brief from the Religion-Labour Foundation represented by Reverend J. R. Mutchmore, Reverend Harold Toye, and Murray Cotterill.

The procedure that we have been following, gentlemen, is that the brief should be read in its entirety and then after it has been read, you allow yourself to be questioned by the members of the Committee. Who will be presenting the brief?

REVEREND TOYE: I shall.

MR. CHAIRMAN: Will you kindly proceed, Mr. Toye. You may sit down if you prefer to do so.

REVEREND TOYE: Thank you. Just a single word of introduction and apology on behalf of two members of our Committee that were appointed by our Provincial Association, the Reverend Dr. Vaughan of Brantford, and Reverend Allan Ferry who had to go into the hospital at Noon today. (Reverend Toye reads Brief).

MR. CHAIRMAN: Thank you very much Mr. Toye. Now then, gentlemen, we will proceed to consider this brief in the usual manner.

MR. WREN: Mr. Chairman might I ask you a question? How many people belong to this Religion-Labour Foundation?

REVEREND TOYE: That question is very difficult to answer. Our actual membership, that is individually subscribed membership, $3.00 membership, runs

in the neighborhood of two hundred and fifty. In addition, the Labour Congress, the Ontario Federation of Labour and half a dozen district labour councils and a number of local unions are all affiliated, so that in terms of membership - -

MR. WREN: With what Churches is the Religion-Labour Foundation associated?

REVEREND TOYE: All churches. It is inter-faith.

MR. COTTERILL: He wants to know if any churches officially are represented.

REVEREND TOYE: No, that is the function of this organization.

MR. WREN: Then the three gentlemen here, to what church do they belong?

REVEREND TOYE: Dr. Mutchmore and Dr. Vaughan are members of the United Church. I think that Mr. Cotterill is affiliated with the United Church.

That is most unfortunate, but on our Board of Directors we have Jews.

MR. WREN: What religion are you?

REVEREND TOYE: I am United Church.

MR. WREN: You are all United Church?

REVEREND TOYE: We are all United Church, but the organization is not in any sense more closely related to the United Church than to any of the other churches.

MR. WREN: Are there Roman Catholics associated

with you?

REVEREND TOYE: Roman Catholics are represented on our Board, yes.

MR. MYERS: What are the activities of your organization outside of presenting this brief? What other things do you do?

REVEREND TOYE: May I say, gentlemen, that this is an experiment. There is nothing like it in Canada. It is an experiment that has been undertaken by some of us who had no training in this field, and perhaps not very great qualifications.

MR. MYERS: Is this the first thing you have done?

REVEREND TOYE: No. Our chief concern has been to interpret the two great institutions of organized labour and organized religion, which includes all the churches, to interpret one to the other and to create a better understanding.

MR. MYERS: You have regular meetings?

REVEREND TOYE: Yes, we have meetings.

MR. MYERS: How often?

REVEREND TOYE: We just concluded our Provincial convention in Hamilton on Monday.

MR. MACDONALD: When was the Foundation established?

REVEREND TOYE: Well I don't know when it was established. Like Topsy it just came into being. Our first convention was about 12 years ago.

MR. WREN: How many people attended your recent convention in Hamilton?

REVEREND TOYE: We had a registration of seventy. However, those are your representatives. They were there from Ottawa on the east to Brantford, St. Catharines, and Guelph.

MR. YAREMKO: You have representatives from the church groups and from the labour groups. Are there any representatives from the management groups?

REVEREND TOYE: We have not, and that is a long story. We recognized from the very beginning that you just can not deal with the problem in this area and forget management. We all agreed to that and so we made several attempts to bring in representatives of labour, management and the church.

Now, quite frankly, two of those attempts were tragic.

MR. REAUME: Why?

REVEREND TOYE: It turned out to be nothing but a glorified dog fight between labour and management, and management and labour with the church sitting in between not knowing what it was all about.

MR. WREN: You chose the side of labour.

REVEREND TOYE: Now we came to the conclusion not to dismiss management. Our constitution makes it quite easy and natural for any management representative to become a member of the Religion-Labour Foundation.

It is open to any individual or group who

wants to share our sense of values and who accept the rules and regulations of the Foundation.

MR. WREN: Do you feel that the Moderator of the United Church is representing this Brief?

REVEREND TOYE: Representing this brief, no. They are entirely sympathetic with the work we are trying to do.

MR. WREN: You think the Moderators agree with this brief?

REVEREND TOYE: I would say I have no right to speak because we do not officially represent labour, and we do not officially represent the Church. That is the genius of the Religion-Labour Foundation.

We figured that there has to be a group of dedicated folk who will be able to mediate between these two organized groups.

MR. WREN: You sincerely believe that this represents the other churches in Ontario? The Roman Catholic church?

REVEREND TOYE: No question in my mind the others would agree to the spirit of this document.

I am not suggesting by that that they are prepared to be officially represented on our Board at this stage.

MR. CHAIRMAN: You referred to a constitution. Why was that constitution drawn up and when?

REVEREND TOYE: Five years ago. Five or six years ago at one of our conventions.

MR. CHAIRMAN: Do you have a copy of it with you?

REVEREND TOYE: I have plenty of copies available with me on labour, I can assure you. (Booklets are handed to the members of the Board.)

That is not the constitution, Mr. Chairman. It will perhaps help.

MR. CHAIRMAN: Where was the constitution drawn up?

REVEREND TOYE: In Toronto. Our convention was held in the Royal York.

MR. CHAIRMAN: Who are the signatories to it?

REVEREND TOYE: The officers of the convention.

REVEREND MUTCHMORE: I think it may help, Mr. Chairman, if I answer a question that was put over here. It may help the Committee.

I happen to be the Secretary of the United Church Board that is responsible in this field. Now as a church we want to have our own responsibility in this field. We do not want to delegate it to any other body. I think that will be understood.

At the same time, we recognize the need for fellowship and with a relatively loose relationship or organization such as the R-L-F provides, it helps to bring people together and work together.

Now the United Church as far back as 1940 is on record in favor of collective bargaining. The Anglican Church of Canada is on record in favor of

collective bargaining. You can go right down, the Roman Catholic Church and so on.

MR. CHAIRMAN: I think collective bargaining is a well-established principle. Everybody recognizes it now.

MR. REAUME: You mentioned a Board. Who are members of that Board? Your Board.

REVEREND TOYE: There are I think twelve in all, and they were appointed by the convention. You mean to name them?

MR. REAUME: Yes.

REVEREND TOYE: Or just the churches represented?

MR. REAUME: Name them if you can. Who is the President? Have you a President?

REVEREND TOYE: Yes. Reverend Allan Ferry, who is the Chairman of the Board, who intended to be here but he had to go to the hospital.

MR. REAUME: He is of what church?

REVEREND TOYE: He is of the United Church.

MR. REAUME: Vice-president?

REVEREND TOYE: The Secretary was Reverend David Sommers.

MR. REAUME: Of what church?

REVEREND TOYE: Of the United Church in Carleton Place. Mr. Elmer Small who is a labour man. He is a member of the Anglican Order. Reverend I. G. Perkins, another United Church Minister. Mr. Larry

O'Connell. He is a Roman Catholic. Rabbi Fineberg, a Jew. Reverend Emyln Davis, Baptist. Mr. Howard Best, member of the Municipal Employees Association.

Now I can not say whether I have got them all or not.

MR. REAUME: That gives us an idea.

MR. CHAIRMAN: Now, gentlemen, shall we proceed?

MR. YAREMKO: In looking over this brief, I assume, perhaps correctly Reverend Toye, that in the preparation of this brief management was not consulted at all?

REVEREND TOYE: No.

MR. YAREMKO: In addition, in the preparation of this brief, the Religion-Labour Foundation in the main would be governed by the view in regard to industrial relations of those members who are the members of the organized labour movement? Would that be correct?

REVEREND TOYE: Well, now we have never allowed ourselves to be used as the department of public relations for labour and neither have we allowed ourselves to be used in the sense of evangelists for the church. That is not our job. Our responsibility is recognized.

Church and labour, or religion and labour are two of the most powerful institutions in our society and they are poles apart. They do not understand one another and they are not working together. The genius of the Foundation is that we want to interpret each to

the other and encourage cooperation on the basis of mutual respect and understanding.

MR. REAUME: I do not understand how you can enter into a condition of harmony where you only have the interest of the church and the working man.

Why do you not have management?

REVEREND TOYE: I did not finish the story. We made the attempt, as I said, to bring management, labour and the church together. The attempt failed the first time because the atmosphere just made any fellowship impossible.

Then we tried to secure representatives from management and we found that that was possible, but only on one condition that they appoint - the Manufacturers Association, Industrial Relations Institute, and so on, they appoint their representatives. This representative inevitably was their lawyer and we discovered that we just couldn't get to first base on that. They were not concerned with the theme with which we were concerned. The idea was not that of fellowship.

We felt that we have always wanted the support and the help of management. We provided for it by that section in our constitution which says that any individual, and so on. It is held open to management but we have discovered that we can not achieve their assistance in the way that we wish.

MR. REAUME: We can understand that very easily from the brief.

MR. CHAIRMAN: Shall we proceed to discuss the brief now, gentlemen? Page one, any questions? Page 2, any questions? Page 3?

MR. MACDONALD: Mr. Chairman, there is a point that is implicit on page 3 here, more or less throughout the whole brief. You have said that you are in favor of collective bargaining procedures, and so are all the various churches that have representation. The Manufacturers Association has so indicated too.

I do not know whether I am correct or not in stating that our Act necessarily favors collective bargaining per se, or favors the promotion of collective bargaining procedure as an objective. It does not? In other words, it just provides the machinery, if this machinery is required.

Am I correct that your basic request is that the Act should espouse the promotion of collective bargaining and the establishment of unions?

MR. CHAIRMAN: You mean make it compulsory?

Mr.MacDonald: There are other ways of doing it without making it compulsory.

MR. CHAIRMAN: Is it not an actual practice now that collective bargaining is available for any groups who want it?

REVEREND TOYE: Yes. I think we have already said that it is not asking it to be -- I think I will leave that for Mr. Cotterill to answer, if I may.

I would like to say this, that the reason why our brief is not in the same orderely form as other briefs, one, two, three, etc., is that we did not feel competent to deal in specific terms with legislation. That was not our concern.

What we are concerned about is that the individual shall realize that collective bargaining legislation, or any other legislation will depend largely upon the spirit in which it is applied. Now, for instance, I have been trying to persuade our clergy, because I meet them in groups all across the Province, I have been trying to persuade them that a strange thing is happening in the process of social evolution. I have been presenting this for the past five years. Now it has become more apparent than ever. There is a growing inner spiritual revolution on the part of the common people against the generally accepted and old conception of ownership.

MR. CHAIRMAN: Would you not agree that the position of labour today is infinitely stronger than it was in 1943 when the Labour Relations Act in Ontario was passed?

REVEREND TOYE: Oh yes.

MR. CHAIRMAN: Mr. Cotterill were you going to say something? What is Mr. Cotterill's connection with this application?

REVEREND TOYE: He is a member of the Commission that was appointed by our Board.

MR. CHAIRMAN: He is not the liaison officer between this Board and any other Board?

MR. COTTERILL: I am an individual participant in the R.L.F. sir.

MR. YAREMKO: Mr. Cotterill, did you participate in the preparation of any other briefs before this Committee?

MR. COTTERILL: No, I did not sir. Let me clear one thing up, Mr. Chairman. I have reason to believe that there may have been other briefs presented to this Committee which might have been prepared and presented with whom I am associated in some organization, but I had nothing to do with the preparation of those briefs.

I am a staff representative of the United Steel Workers of America and have been for approximately 18 years in this Province. It has been my fortunate experience to be associated with the legislation affecting collective bargaining during those years.

I think it would be a fair thing to state, as this brief states, that the primary purpose of the existing legislation has been to make strikes and lockouts as illegal as possible for as long as possible. In other words, that is the reason why the laws were passed.

MR. CHAIRMAN: You really announce that proposal seriously?

MR. COTTERILL: I do, sir. When the present legislation was passed - I don't know whether you are familiar with the labour-management situation at the time that the Industrial Disputes Investigation Act was passed. If you had been, you would have known that the chief concern on the part of legislation, and in fact on the part of the public was management. There were a great many unnecessary strikes.

The reason why there were so many unnecessary strikes was because the question of whether or not a company should recognize a union had not been resolved by law.

The Industrial Disputes Investigation Act attempted, without any process for certification, to avert or to avoid unnecessary strikes. However, they grew in number. The first step was to transfer authority for certification to the Supreme Court of Ontario, which was a short lived experiment. I understand, however, that there are people who would like to refer the process back to the courts.

Then legislation was passed to stop these strikes, and I think it is a fair statement sir to say that the approach, the reason for the present legislation, no matter what it has turned out to become - the reason behind the legislation being passed in the first place was essentially to avoid strikes.

MR. CHAIRMAN: In the first instance we incorporated the Canadian Industrial Disputes Act.

MR. COTTERILL: You added to that, sir.

MR. CHAIRMAN: Yes. You do not agree now that the Labour Relations Act, as it is presently constituted, is designed primarily for the purpose of preventing strikes and lockouts?

MR. COTTERILL: Well, the legislation I say, sir, once again was designed -

MR. CHAIRMAN: Now, now, this is the same legislation as far as this Committee is concerned.

MR. COTTERILL: I do not know whether you believe it now is or not, sir.

MR. YAREMKO: Mr. Cotterill, is the drafting of legislation to prevent strikes and lockouts such a reprehensible thing?

MR. COTTERILL: No sir.

MR. YAREMKO: Should this Act not continue?

MR. COTTERILL: No. One of our objects -

MR. CHAIRMAN: Would be to prevent strikes.

MR. COTTERILL: By all means, sir. This brief does not suggest there is anything reprehensible about the purpose of preventing strikes and lockouts. It suggests merely that the purpose of the legislation is essentially the negative purpose, which is admirable for preventing strikes and lockouts, rather than the positive approach of encouraging the collective bargaining process as a method of determining things between labour and management.

To be quite frank with you, the Chairman's

own remarks when he says that no group of working people is prevented from joining a union, that is true. No employer is prevented from recognizing a union either, but the fact still remains that a very large segment of our economy does not practice collective bargaining in the area of employer and employee relations.

MR. REAUME: Why?

MR. COTTERILL: Why, sir? In my opinion the legislation does not encourage it.

MR. REAUME: Would it largely be the working men involved in that segment that do not want collective bargaining?

MR. COTTERILL: What a working man wants and what he does not want depends very largely on what he is afraid to do or not afraid to do.

If I were a working man in a small operation in which the bargaining unit could be easily replaced, I do not think I would want to join a union. I would be afraid to.

MR. REAUME: I see.

MR. COTTERILL: But because I am an ordinary man I would not put it that way. I would say I do not want to.

MR. REAUME: Would it not be the case in some areas the reason people are not organized is because there is no organizer around to organize them?

MR. COTTERILL: It is possible.

REVEREND MUTCHMORE: From the standpoint of the Church, I do not think they have the capacity, or the Committee have the right to dot the "i" and cross the "t", and consider the subsection.

In my experience in the United Church work that I am in now over the last twenty odd years, I have found the legal man moves very quickly into these legal matters. I view the legal man with a high respect and the profession, and so on.

As a churchman, however, I do not come in here to speak in terms of law but in terms of grace and forgiveness; of hope and compassion. Now speaking from the standpoint of the church, we are deeply concerned about the unorganized groups in this Province and throughout this country.

Now, who are they? Well, I will mention some. There are many small towns in this Province and throughout Canada, and we have a very close contact in our experience with small towns. We have learned that in many small towns, men and women are performing their work, you see. They do not say very much. They just go to work and come home again. They have no solidarity. They do not possess too much strenth.

If the industry in that community is a part of a big industry, their strength is even less. Now a second group: There are six million employed people in Canada today. One quarter of them are women. The

church has always been concerned about women in industry. Quite recently the Roman Catholic church, through a statement of the Pope, has asked that women be not employed in heavy industry. Just because they are women.

Now, because of the demand of industry in this rising economy of ours, one out of every four gainfully employed persons is a women; 40% of these women are married. These married women have about one million children. Now again we go into it in terms of human need. We find that many of these women are gainfully employed in industries that are not organized.

Another group of women in that same area are the women between fifty-eight or fifty-five, I don't want to go too low. They are in a little shop; thousands of them are in little shops. I know a number of them quite well personally. They are in a very vulnerable position, these little groups. They have no bargaining power. This Province has power, but these women do not have power. Now, Murdochville has been referred to -

MR. CHAIRMAN: That is not in the Province of Ontario.

MR. MUTCHMORE: That is right, it is not in Ontario, but the company that owns it is in Ontario.

MR. CHAIRMAN: It comes under the labour relations laws of the Province of Quebec.

REVEREND MUTCHMORE: Quite right, and that has to do with our reason for something Federal in this Province. We hope to get the Federal Labour Code to cover.

Now what about these one industry towns? I have worked in them; administered in them, and so on. I have seen strikes in them. We all know there is only one industry in a mining town, and that is mining. If you lose your job in the mine, you lose everything. You have got to get out of it.

Now the hard rock mining story in this Province has been a story of great wealth, out of which this City has had the biggest share. I won't go into politics, but just take this question of wealth out of the resources in this Province - wonderful results!

What happens in the small mining town community? There have been strikes that have been very serious; in which the United Church, for example, has been very much concerned, and some of them in this Province. I do not want to take up the time of the Committee but I think I know a little bit about this hard rock mining story, going back to the days when I helped build railways in northern Ontario to open up some of these mines. It was only with a great deal of effort on the part of the Government of this Province that there are some improvements in mines.

I think International Nickel is an exception. They adopted the Rand fomula on their own steam. I know something of that story. I had heard it through John Foster Dulles, for example. That is not the only mining company in this Province or these are not the only experiences.

Now I will sum up in regard to page three and say this: that from a standpoint of the churches, we come

here not in terms of law, but in terms of grace and the need to talk about the weak people in this Province. These labouring women. These women with children who have to go out to work. These people in these little towns. I can give you chapter and verse for it. These little towns, many of them not organized, and these one industry communities, especially mining communities. They have not had too good a record.

That is what I would like to say about Page 3.

MR. REAUME: I know it is hard to go into organizations, but the question always presents itself: Are the union organizers, and after all it is their business, really trying to organize these little towns and these little places?

MR. JACKSON: I do not think that is the right slant to put on it.

MR. COTTERILL: I would be very happy to answer Mr. Reaume's question. If I was an organizer, my conscience would not permit me to honestly tell certain groups of employees in the Province of Ontario at this time that they had enough protection under the Ontario Act that they could, in good conscience, risk their jobs and their future by joining a union.

MR. REAUME: I would like to explain the reason why I asked that question. In the early days of organizing the automotive industry, Windsor, of course, was one of the first. By reason of the union not having a sufficient amount of organizers in other towns in the area, or other

towns in the Province, they were forced in Windsor to pay certain wages which they thought were high. Consequently, feeder plants in smaller towns were getting blocks made for probably one half as much as we had to pay in Windsor. Consequently, Ford and Chrysler bought their blocks and other parts of cars from out of town and forced our own people out of work. It was around 1943, 1944; in that period of time.

We said to the unions why do you not go into these places and organize them so they would be on a fair basis with our plants in Windsor? They said we have not got the staff. It was not that the people working in those plants did not want to be part of the union; it is because the union did not have the staff to go out and organize them.

That was the answer then. I am just wondering if that is the answer now.

MR. COTTERILL: It may be in the case of the Union you are referring to, sir. I do not know.

MR. JACKSON: You are not against mothers in industry are you in this brief?

REVEREND MUTCHMORE: I do not think the Committee wants me to go off on a tangent. At the beginiing of the industrial revolution, industry went in and took the child out of the home by the thousands. You know that story. Lord Shaftesbury. Today as we see the picture, industry and business are going in and taking the mother out of the home.

MR. JACKSON: Have you talked your ideas over with any mothers?

REVEREND MUTCHMORE: Oh yes, I have.

MR. JACKSON: They do not want to work?

REVEREND MUTCHMORE: I am not saying these mothers do not want to work. Some of these mothers must work, with the high cost of new housing and so on.

MR. JACKSON: Some want to.

REVEREND MUTCHMORE: And some want to because of some extras. Some, in fact a large proportion, would much rather be with their small children or their teen-agers in their homes.

MR. JACKSON: Rather than what, than work?

REVEREND MUTCHMORE: Rather than be gainfully employed.

MR. JACKSON: How would they keep themselves?

REVEREND MUTCHMORE: Through the economy of this Province being so arranged, without having a Communist Government in charge of it, we do not have a people forced to leave their children and go out.

MR. JACKSON: In other words, the Government would do it?

REVEREND MUTCHMORE: Would have a share in the planning.

MR. CHAIRMAN: Are you asking us to pass an Act in the Province to stop married women and mothers from working? Is that what you are saying?

MR. MUTCHMORE: No, I am simply asking that the

collective bargaining procedure in this Province, when it is negotiated, there be the kind of thing that Mr. Toye has been presenting in this brief, namely, educational process, Government assistance, and so on, of the positive type that will build up this kind of collective bargaining procedure.

You know the same as I do there are many little shops, a woman is working here, sixty-five; and another sixty-seven, and there are a lot of others in this great City who are not organized.

MR. MACDONALD: You keep speaking about collective bargaining. One thing, as I understand it, any employer with two or more people employed in a Company, those people have that right.

REVEREND MUTCHMORE: They have the right, but they can not get any place with it. They are too weak.

MR. COTTERILL: Possibly if Mr. Reaume would repeat that question again at a subsequent page, there is a point where it is answered.

MR. CHAIRMAN: We will deal with page 4 now. Any questions? Page 5? Is that the page you are speaking of?

MR COTTERILL: No.

MR. CHAIRMAN: Page 6?

MR. WREN: Page 5, second paragraph, you say we are in the same position today. In other words, you are referring to Ontario being half slave and half free. You mean that deliberately? I mean, are you serious about that?

REVEREND TOYE: Well, I would be, yes.

MR. CHAIRMAN: Page six? Page seven?

REVEREND MUTCHMORE: At the bottom of page six I think there is a point of some interest regarding the Civil Servants.

MR. CHAIRMAN: We have already received this, that is why we are not discussing it. Page 7? Page 8?

We have not come to your page yet, have we Mr. Cotterill?

MR. COTTERILL: It is not my page, sir, At the moment it is Mr. Reaume's page. I would say on page eight, the second to last paragraph is the answer to the question.

Certainly we have a right to collective bargaining in certain types of shops or occupations, but in practice there is no right because with equal validity under the Act the employer can, without blinking an eyelash, replace his employees even after you have certified them, negotiated with them, conciliated them and everything else.

The fact of the matter is that where that exists, where an employer can replaces members of the certified bargaining union with impunity and legally, you can not have collective bargaining.

MR. REAUME: I have seen instances of where those stronger in the union have stepped in for the purpose of helping those who are weak.

MR. COTTERILL: Yes, had to put a mass picket around some places, or something of that sort.

MR. JACKSON: With regard to the second last paragraph on page eight, what are your thoughts about men who have worked there and want to go back to work?

MR. COTTERILL: I think you will find that answer sir in the first paragraph of nine. Are you asking for my thoughts, or those of the Commission?

MR. MACAULAY: That is what you represent here, the Religion-Labour Foundation.

MR. ROWNTREE: I do not think the Committee is under examination, Mr. Chairman.

MR. COTTERILL: I am sorry, the second paragraph on page ten is the answer I want to give you.

MR. CHAIRMAN: Are you through with page 8? Page 9 now gentlemen? Page 10?

MR. MACDONALD: This is a complete statement of what I pointed out, if I understood the point which Mr. Reaume has asked.

I think it specifies here that there is no restriction being placed on management to try and entice members of the bargaining unit back.

MR. COTTERILL: Yes, but the issue is to replace the original bargaining unit.

MR. WREN: One thing I can not understand. What is the difference between a man who violates the loyalty to his own union and goes back to work, and a man who goes off and goes into another plant. What is the difference between the two men?

MR COTTERILL: Personally - I would say once again I can not speak on behalf of the other gentlemen. I can only speak personally.

MR. REAUME: You are all together.

MR. COTTERILL: Whether the other gentlemen here will support my views or not, I do not know on this point.

MR. WREN: Answer my question please.

MR. COTTERILL: The question, I think Mr. Chairman was directed to me.

MR. CHAIRMAN: As one of the group.

MR. COTTERILL: As one of the group, I see. (Mr. Cotterill receives permission from Reverend Toye and Reverend Mutchmore to reply to the question.)

In reply to that statement, I think that if a union, for example, such as the one that I happen to belong to, has provision in its consitituion for local monthly meetings for a special meeting on a subject specified, and it must be called on the part of any ten employees who might belong to that local, I would say that there is ample provision in the constitution practised by that union, to permit any employer to have any proposal of his discussed by the employees, as to whether they should accept, for example, a company proposal on a contract.

Now you say what about people in the bargaining union? I think it is a morally reprehensible thing.

MR . WREN: What is the difference between the two men?

MR. COTTERILL: Well I think one of the major differences between the two men, sir, is if a man who is a member of the certified bargaining union, performing a certain function in the plant goes back to work at his

function, he is not taking someone else's job from him when the strike is over.

I would say, for example, a man goes back to work as a machinist in the plant is not replacing an operating engineer, shall we say, if that man was a machine operator. He is going back to his own job. The job he held at the time of negotiations.

MR. WREN: Is he not in effect saying I do not approve of this, I am going back to work? I do not agree?

MR. COTTERILL: That is correct.

MR. REAUME: As a scab would you call him?

MR. COTTERILL:: I would not call him one, sir.

MR. REAUME: What would you call him?

MR. COTTERILL: Well, I would usually call people by much nicer names than that.

MR. REAUME: You would call him something?

MR. COTTERILL: What I would call him would be a very foolish and very wicked man.

MR. WREN: Very wicked man.

MR. CHAIRMAN: What would you say about the situation where a strike had taken place, strike had followed after a conciliation procedure had been followed through, and say a hundred men are out on strike. The strike is going to be a protracted affair and seventy-five or eighty of them go elsewhere and get jobs. Do you think management should still be held down to dealing with that bargaining union, representing those seventy-five men who have gone

elsewhere?

MR. COTTERILL: I do not think they would be called upon to deal with that bargaining union, expecially if the seventy-five men found better work.

MR. CHAIRMAN: Would the Company be at fault if they took on another seventy-five men in that instance?

MR. COTTERILL: I would be quite prepared, as a union member, to insist that my own union prevent seventy-five men from taking work like that during a strike, if I could be assured that the laws of Ontario would guarantee that they would not be replaced in their existing jobs merely because they have gone on strike.

MR. CHAIRMAN: Supposing these seventy-five men say I am not satisfied with what I am getting from the union while I am on strike. I have got a wife and family. I have got to work. I have a chance to get a job. Seventy-five men agree to go and take jobs elsewhere.

Is there anything to prevent management from replacing these seventy-five men?

MR. COTTERILL: Are you asking me this on the assumption that some form of law exists which precludes strike breaking or replacing these people as long as they were willing to go back to work and do not take the jobs elsewhere permanently? Is that what you are saying?

MR.CHAIRMAN: I did not say anything of the kind.

MR. COTTERILL: I can not answer your question unless I was assured that their jobs would be held for

them during the period of collective bargaining process.

I would say this very frankly that if a group of employees were able to go out on strike legally, knowing that they retained their vested right in their job during the strike, or during the lengthy collective bargaining process, and that they were not going to be replaced by non-members of the bargaining unit, then I think you would have a perfectly moral right to insist that they remain on strike and accept their share of the sacrifices involved.

MR. CHAIRMAN: If they do go on strike, do they not take a certain amount of risk?

MR. COTTERILL: Yes, that is right.

MR. MACDONALD: By the same token one of the points in this brief is the risk management takes when a strike goes on. They have to take the consequence of continued lack of production and they do not have the right to recoup that loss by bringing in other men.

MR. COTTERILL: I think I can answer your question very simply by saying suppose we consider the both sides equally. We have had quite a discussion on the question of strike breakers. We have never even heard the term of a lockout breaker.

MR. REAUME: How do you reconcile that with the theory of the right to work?

MR. COTTERILL: I think that the right to work has been fulfilled once you accept the collective bargaining process. I see nothing to interfere with the essential

right to work there.

MR. REAUME: Personal freedom; religious freedom; freedom of thought.

MR. COTTERILL: I am not aware that there is any suggestion in here of any interference with religious freedom, sir.

MR. REAUME: I said are they not in the same category, the right to work?

MR. COTTERILL: I would answer yourquestion in the same way as the question was answered regarding the Tora. I would say that religious freedom is not within the realm of Ceasar, and what we are dealing with here is the same thing.

MR. YAREMKO: If a member of the bargaining union that is out on strike wished to return to work, would he not be, for all practical purposes, almost ostracized by the remainder of the bargaining union as a matter of practical every day living?

MR. REAUME: He has already answered that. He said he was a very foolish and wicked person.

MR. YAREMKO: That is what you are calling him. Is it not a fact if one hundred men were out on strike and one person of that bargaining union wanted to return, from his own convictions, and the other ninety-nine do not, as a matter of practical day to day living in your ten years' experience or more, would he not, in effect, be practically ostracized by the other ninety-nine?

MR. COTTERILL: Well, sir I cannot speak for

the other ninety-nine. I can speak only for myself. I would not ostracize the man. Some of my friends are men who have done precisely that.

MR. MACDONALD: If Mr. Yaremko breached a unanimous agreement of the Conservative caucus, he would be ostracized for precisely the same reason.

MR. COTTERILL: They are not only my friends, but they have not done it again.

MR. CHAIRMAN: You would agree then Mr. MacDonald he would be ostracized, do you?

MR. MACDONALD: I am not agreeing. I am saying that would happen.

MR.YAREMKO: If an agreement has been taken by a group of workers, a majority agreement, they have gone out on strike and some man wants to breach that majority agreement, I think you are asking an awful lot of human beings if the rest are not going to ostracize him.

The example has been used, and it is a good example, of the man who has worked on the job for forty-five years and is out on strike. This man wants to return to work from a conviction. Would it be so wrong if he did so?

MR. COTTERILL: Well, sir, may I point out that on page 10, paragraph 2 I think that my position is expressed very carefully and clearly as part of this group as to what I believe in this matter.

I do not see that the issue is a question of members of the bargaining unit being induced to go back to

work or changing their minds. The place where I consider the greatest single source of violence being threatened in industry today is when an attempt is made by an employer not to induce the members of the bargaining unit to go back to work, but to replace those people with a totally new group of people.

MR. CHAIRMAN: Are there many instances of that? Have there been many instances of it in your experience in Ontario?

MR. COTTERILL: I would say, sir, that I know of no instance where there has been violence reported, where such a proposal has ever happened, but it has been threatened that it will happen.

MR. CHAIRMAN: Do you know of any instance where it actually did happen?

MR. COTTERILL: That a person was asked to go back to work who is not a member of the bargaining union?

MR. CHAIRMAN: Where the person who was a member of the bargaining union has been replaced?

MR. COTTERILL: Oh yes sir.

MR. CHAIRMAN: Many instances?

MR. COTTERILL: I would say that there were several instances. This has taken place in the mining industry in Northern Ontario. I know of some instances - I can not name you towns - in the woodworking and lumber industry where this has happened, where people have been replaced by others.

I have not got the names at the moment, but I am told by the textile workers union that this has happened.

I personally have not been involved in one but I have been informed of several such cases outside of Ontario.

MR. REAUME: I understand that there was an instance in Windsor where members of the union and the executive of the local had been kicked out with the OK of the union.

MR. COTTERILL: You may be aware of such a case. I am not familiar with the situation in Windsor.

MR. YAREMKO: Have there been many instances where the employer has prevailed upon the members of the bargaining union to return to work during the course of a strike?

MR. COTTERILL: There have been no cases to my knowledge, sir. Yes, I think that it would be true to say that I do know of one case where that happened, and I will state it very frankly. It was in a mining case, the Broulan-Reef Mine.

However, this would depend whether you consider the bargaining union to be the people involved in the strike as a whole or the people involved in one particular mine. In the one particular mine, yes, the employer induced the majority of the people to go back.

That is the only case within my personal knowledge in which I have been involved. I am informed that there have been cases. It has been reported in the

press there have been other cases involving unions of which I have no personal knowledge.

MR. MACDONALD: Take a recent case. I understand that there was considerable replacement of the original bargaining union in the recent Lever Brothers strike.

MR. COTTERILL: I am informed there was considerable involved.

MR. YAREMKO: Do you have personal knowledge of that?

MR. MACDONALD: Certainly the union involved made charges.

MR. CHAIRMAN: Order!

MR. YAREMKO: Please let the witness answer. Have you any personal knowledge of the Lever Brothers strike?

MR.COTTERILL: Mr. Chairman, I am not trying to hide behind any amendment, but I will explain very frankly that my particular union was asked to help in certain conciliation between management and the union involved in that strike, which led to the settlement of the strike.

In view of the conciliation and the knowledge which I acquired of the facts of the strike, I would prefer not to answer the question if you do not mind. It is merely that I made certain promises to both sides not to reveal information.

REVEREND MUTCHMORE: Mr. Chairman, may I say something of a general nature? Page nine refers to this matter and ten.

MR. CHAIRMAN: I thought we were on page 10.

REVEREND MUTCHMORE: That has to do with the concept of property ownership. This concept throughout the world, as we all know, is rapidly changing; very rapidly changing.

Undoubtedly because of the much larger movement of our population in industry, the view that the worker owns his job is becoming more general, Whether we like it or not, it is a fact of life and sooner or later it will be more recognized in law.

Now I have used this illustration in regard to this matter of property because I think it is a very important question. The question of who owns the property that is where your power is.

I do not want it for the record, but I have used the steel company in Canada - a steel company in Canada. Now there are three ways to think of this ownership. It is owned by its shareholders. If the method followed in the Socialist Government in the United Kingdom should prevail at any time in Canada and steel should be nationalized, then the property would become the property of the Nation and shareholders would be compensated.

Now there is a third way, as we know. The Russian way is to take it without compensation. Now these are the three ways and with the rising tide of nationalism in the world, this idea of taking without compensation is not just a fairy story. I know many of these steps can not be built into sections and subsections and subsections of an Act.

I think the thought pattern in regard to this matter here on Page nine, property ownership, the whole concept of it is changing. It is changing in this regard. As Mr. Reuther the other day said in regards to the automotive industry - I am sure Mr. Reaume knows of this matter - when it comes to the benefits of property within a twelve month period, it may be divided, I am not just sure of the division, one quarter would go to the shareholders, the remaining three quarters would go to working capital and part would go to the employees as owners of the property.

Now this is a new concept and it comes very strongly into the picture. It does indeed.

MR. CHAIRMAN: The concept as announced did not meet with very favorable reaction from either management or individuals as I recall the press coverage on it.

MR. WREN: In the history of the world, the decision has not always rested with the few.

MR. MACDONALD: Individuals sometimes change if they do not recognize the inevitable.

MR. CHAIRMAN: Do you agree with that concept?

MR. YAREMKO: Do you not think that leads you into the belief that there are different types of property. You must differentiate then between the property which a man has when he owns a machine and the property that he owns when he owns a home.

Supposing my neighbor does not have a back garden and I have.

MEVEREND MUTCHMORE: I do kot know the law but

the domain of property in terms of land is that preeminent domain of the surfs who held land against the King. That took place some three hundred years ago.

Now it is just possible in the evolution of forces that there will be a new concept of property such as Mr. Reuther has pronounced.

MR. CHAIRMAN: Something to think about at any rate. Gentlemen, is there anything else on page 11?

MR. MACDONALD: People who think about it are not hopeless.

MR. CHAIRMAN: No, they are not. I will let my children worry about it, though.

Anything on page 11, gentlemen? If not, Reverend Toye may I on behalf of the Committee, as its Chairman, thank you very sincerely for the very capable and able presentation you have made, and you can be assured that this Committee will give this brief its very careful consideration.

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- - - The Committee adjourned at 4:00 P.M. until Thursday, January 23rd, 1958 at 10:00 P.M.

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LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1, Parliament Buildings,
Queen's Park, Toronto, Ontario

Thursday,
January 23, 1958.

JAMES A. MALONEY	Chairman
HAROLD PERKINS	Secretary
GEORGE T. WALSH, Q.C.	Committee Counsel

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J. W. Spooner
Albert Wren
John Yaremko
Robert Macaulay

APPEARANCES:

Mr. J. B. Metzler	Deputy Minister of Labour

CENTRAL CONFERENCE OF THE TEAMSTERS' UNION

I. M. Dodds	Canadian Director, and President of Local 880.
I. J. Thomson	Representative
G. S. Nisbet	Counsel

MR. CHAIRMAN: This morning, gentlemen, Mr. Dodds, in response to our invitation, has presented himself before this Committee.

He is, I understand, the Canadian Director of the Central Conference of the Teamsters' Union, and President of Local 880. He is accompanied by Mr. I. J. Thomson, Representative of the Central Conference of Teamsters' Union and Mr. G. S. Nisbet, counsel for the Teamsters' Union.

We regret, Mr. Dodds, that in asking you to appear this morning at 10:00 o'clock, we were unable to proceed at 10:00 o'clock, but I am sure the reporter has explained herself to you and that you, along with the Committee, will forgive the delay that has taken place.

MR. DODDS: Yes.

MR. CHAIRMAN: You had made a statement, Mr. Dodds, with reference to your desire to file a brief in reply to the brief that is being filed by the automotive people. So that we can have that on the record, would you care to make that statement again?

MR. DODDS: Yes sir. If once having heard, or having one of my associates listen to the reading of the brief, we would like to have the privilege of filing a small brief with this Board, if there is anything contentious within that brief that gives us concern.

MR. CHAIRMAN: You feel that you could do that by the end of the month?

MR. DODDS: I think it is possible, sir.

We will bend every effort.

MR. CHAIRMAN: You may consider yourself free to do it. We would be very pleased to hear from you.

MR. DODDS: Thank you.

MR. CHAIRMAN: Now, Mr. Dodds, unfortunately our counsel is unable to be present this morning, as he had to attend a funeral. In addition, he will not be here this afternoon, so I am afraid that it has turned upon me to put some questions to you in his absence.

One of the purposes in asking you here today is, among other things, to get the opinion and the viewpoint of the Teamsters' Union on the question of secondary boycotts. It has come up in our deliberations here where instances of secondary boycotts have occurred, and some of the members of the Committee have expressed the desire that we would like to have the opinion of the Teamsters' Union on the question of secondary boycotts.

First of all, for the enlightenment of the Committee, could you tell us from your point of view what is a secondary boycott?

MR. DODDS: Mr. Chairman, are there other questions on the agenda?

MR. CHAIRMAN: Yes.

MR. DODDS: I would prefer to leave that one until later. Perhaps I have stolen this from some of these quiz shows, they like to leave the hard question to the last, if it is permissible.

MR. CHAIRMAN: Then would you answer me this:

Do the Teamsters' Union use the secondary boycott?

MR. DODDS: Officially, I do not think we ever have.

MR. CHAIRMAN: What do you mean by "officially"?

MR. DODDS: By an order of an official.

MR. CHAIRMAN: Have secondary boycotts occurred in which the members of the Teamsters' Union have taken part?

MR. DODDS: I presume that they have.

MR. CHAIRMAN: May we take that as being yes, they have?

MR. DODDS: Well I have never actually participated in such a thing. Some did, but I would presume that with the far-flung organization and such a type as ours, it could have occurred in this manner, that perhaps someone has asked us to observe a picket line, an organization other than this local, and in our opinion it has been properly established.

While we have never availed ourselves of the opportunity of going into deep research to ascertain whether the picket line was a legally established one, we have always turned away from picket lines.

There are several good reasons, sir, that we do that.

MR. CHAIRMAN: Would you care to enumerate the reasons?

MR.DODDS: One of the reasons, particularly of the type of operation that it is; a truck driver particularly; although I say truck driver, we have many,

many other phases of organization, which you will see, but particularly a truck driver. He is driving a terrifically heavy vehicle to start with. It is a terrific responsibility. He has a license that he has procured and he can only do work at his chosen occupation because of that license that he has equipped himself for.

I think one of the most dangerous things in the world is to bring a vehicle of any type near a picket line, unless it can not be avoided. Particularly a truck.

It is easy for the company to say put "X" number of people through a picket line. They have only this one person and probably he could get in, if it is a belligerent picket line and they have been aroused by things that were beyond their control. However, when you start to put a vehicle, a truck through a picket line, then you are endangering the lives and the licenses of more than one person.

A brick can go through a windshield. The driver is hit, blinded temporarily. The vehicle goes out of control. It is in gear; could run over "X" number of people; both go through a wall. Anything like this, which you are no doubt well aware of.

We counsel our people, regardless of whether you are right or not, when you approach a Picket line of any type, approach it cautiously. Call the officer of the local picket line. We do not want our people going through it because of the things I have just enumerated, sir.

THE CHAIRMAN: Can you tell me, Mr. Dodds, what effect, or what is hoped will be accomplished by invoking the use of a secondary boycott?

MR. DODDS: I have never given a secondary boycott too much study. We are a sort of big organization that cooperates with all other organizations that practise all phases of industry. Therefore, all the other labour organizations that we come in contact with are seeking some support of some type and they are always different. I do not know of any time that any two have ever been the same.

For certain reasons we like to stay out of those things, if we can. I do not know what more I can say about it.

MR. JACKSON: If you knew, Mr. Dodds, of the secondary boycott condition of a plant that was not on strike, would you as an officer of the Teamsters Union take steps to withdraw it?

I gather from your answers you never order one, but if one came to your attention would you withdraw, ask the people to stop it?

MR. DODDS: I place a great deal of importance on my given word, or my signature, sir. I do not know anyone that can say that I have ever gone back on either a contract or my given word.

I have always done my best at all times to live up to the contract that I negotiate with an employer. If he fails me during the negotiations, that is our fault, and

I will live up to the terms of that contract to the very best of my ability and the people who are working with me as associates.

I have never pulled the string on anyone in that regard, if I had an employer who was under contract.

I do not know of any instance. My memory is not too short either, sir.

MR. JACKSON: Perhaps I did not put my question properly to you. I am thinking of a case where there is in my opinion -- I am not too clear yet what the correct definition of secondary boycott is.

MR. DODDS: I think we are all having trouble.

MR. JACKSON: We have heard various explanations of it, and my question to you is if you knew of an instance where your men, the men of your union, were imposing a secondary boycott ---

MR. DODDS: In our union?

MR. JACKSON: In your union.

MR. DODDS: Yes?

MR. JACKSON: Where they were imposing a secondary boycott on a plant that was not on strike, would you take steps to withdraw the secondary boycott from that plant?

MR. DODDS: That would have to be answered this way: I think you are perhaps labouring under a misapprehension as to my authority. I can answer that as to local 880, of which I am the president. If there was a plant that was suffering because of a withdrawal of our people

from taking or delivering goods to that plant, it would certainly have to be either a wildcat affair, or would have to be instructions coming from the top, either Mr. Wilson or myself. I never give such an order, and I would say this, that once having reviewed the situation and giving it proper consideration, I would then make up my mind whether it was the proper thing to do or not.

MR. JACKSON: In other words, you might condone it?

MR. DODDS: Well, do you know what you are going to do tomorrow?

MR. MACAULAY: Have you ever condoned it in the past?

MR. DODDS: No.

MR. MACAULAY: Is it right the Teamsters Union has never taken part in any secondary boycott in the past?

MR.DODDS: I have not been with them too long, sir.

MR. MACAULAY: Your memory is not long enough to answer that question?

MR. DODDS: I said I have not been with them that long. I come from another organization. I am on loan.

MR. MACAULAY: How long have you been with them?

MR. DODDS: Since 1950.

MR. MACAULAY: Well, in the last eight years would you say that the Teamsters Union has ever been a party, directly or indirectly, in a secondary boycott in Ontario?

MR. DODDS: Not under my instructions. You say the Teamsters Union. There are many Teamsters Unions and locals. Where you are talking about my local, I can give you specific answers.

MR. MACAULAY: Can you give me any information as to any local in the Teamsters Union which has taken part in a secondary boycott in Ontario since 1950?

MR. DODDS: There may have been but I could not point to any instance.

MR. MACAULAY: I see.

THE CHAIRMAN: Mr. Dodds, in addition to being president of Local 880, you are also the Canadian director of the Central Conference of Teamsters Unions, as I understand it, and if such secondary boycott had occurred they would have been brought to your knowledge, outside of your own local, in your capacity as Canadian director, would they not?

MR. DODDS: Well, sometimes, sir, that does happen, and other times your subordinate fails to advise you of some of the things that have happened.

THE CHAIRMAN: Have any of these secondary boycotts, in whatever local they might have occurred, ever been brought to your attention so far as the Teamsters Union is concerned?

MR. DODDS: I could not point out one and say that this has happened in "X" places, or North Bay, or in other words on a certain date that it actually happened. I believe it has happened in our local, but I cannot point

and say this was the fact, "X", local D, and this happened on a certain date, sir. I think that these things have happened and have happened in a temporary nature.

I do not know of any prolonged deal that might have been -- except that I do know back some time that there was a company down in the United States, and I think that perhaps one of the eastern locals did have over a period of time what might be termed, by your interpretation -- I don't know, sir, it is a matter of interpretation what a secondary boycott is, because there are many phases of it. I don't quite understand it, and I don't have a wide knowledge of it, but I believe that could have been termed a secondary boycott.

MR. MACAULAY: Mr. Dodds, in the City of Toronto there has been some publicity given to this situation, the efforts of the Teamsters Union to enroll as members of the Teamsters Union persons who own up to a dozen trucks of their own.

Are the ranks of your union open to management?

MR. DODDS: Nothing says that a little business like that means you are open to management, to me.

MR. MACAULAY: A man who owns trucks, Mr. Dodds, is management to me.

MR. DODDS: Of course that man could be asked. The man could be asked.

I say this, I put it a little more in our language, that the owner -- operators of motor vehicles engaged in commercial enterprises are open.

MR. MACAULAY: Are what, sir?

MR. DODDS: Are open.

MR. MACAULAY: What about a man who owns a good number of trucks and employs other persons to drive them?

MR. DODDS: We do not normally take that chap if he has got five trucks or over.

MR. MACAULAY: You what?

MR. DODDS: We do not normally take that chap if he has five trucks or over.

MR. MACAULAY: Five trucks or over. What about a man who owns four trucks, is he open to membership?

MR. DODDS: Now you are not going to pin me down, a man who has four trucks or five trucks or "X" number of trucks.

We have no right to refuse them membership if they so desire. The law of this country says a person can join a union of his choice.

MR. MACAULAY: No right to refuse them that permission, but have you made any effort to require persons to join?

MR. DODDS: What do you mean "require"?

MR. MACAULAY: Well, apply any kind of pressure to bring them into the membership of your organization?

MR. DODDS: I wouldn't say that.

MR. MACAULAY: You wouldn't, no.

MR. DODDS: I wouldn't do that.

THE CHAIRMAN: Mr. Dodds, how many locals of the Teamsters Union are there in Ontario?

MR. DODDS: We have got approximately eight in Ontario. I would have to go over them on my fingers.

THE CHAIRMAN: Approximately eight?

MR. DODDS: Yes.

THE CHAIRMAN: Could you offhand tell us where they are located?

MR. DODDS: One is in Pembroke, that is east of here.

MR. MACAULAY: Could you give us the names of the locals, sir, as you go through them?

MR. DODDS: They do not have names, they have numbers.

MR. MACAULAY: What number?

MR. DODDS: I would have to get my record out. They are all Teamsters Locals. I can start right at the top.

Local 230, Ready-Mix & Builders Supplies, is really a construction local.

THE CHAIRMAN: Where is that located?

MR. DODDS: That is located in the City of Toronto. Hamilton, we have a General Truck Drivers Union known as General Truck Drivers Union Local 879. Pembroke, 989, that is general drivers local.

Port Arthur, Local 990, that is another miscellaneous general local. Sarnia, Local 967; while it is a miscellaneous local, it deals specifically with a milk local. Toronto again, Local 352, that is a fuel and ice local, and handles oil, coal -- not very much ice any more.

Local 419 is a warehouse and miscellaneous drivers local. I say miscellaneous drivers, that is because a small bunch of truck drivers in that.

Local 647 is a milk drivers and dairy employees' local. Local 930 automobile salesmen. That is specifically automobile salesmen. Local 938, general truck drivers, Windsor. Local 880, that is another general miscellaneous local. That is all in Ontario, sir. Two of those are very small.

THE CHAIRMAN: Could you tell us, Mr. Dodds, the total membership of the Teamsters Union in Ontario?

MR. DODDS: I do not have the latest figures on that. Approximately about 16,000. That is an approximate figure of course.

MR. YAREMKO: Mr. Dodds, when you refer to a local, say the local in Pembroke, is that just for the municipality of Pembroke, or would that cover drivers within the area, with the headquarters in Pembroke?

MR. DODDS: That is right.

MR. YAREMKO: And would that apply to the eight or nine locals that you have referred to, that they would cover areas of the province rather than specific plants or specific municipalities?

MR. DODDS: For example, Local 880 covers Windsor, Chatham, London, St. Thomas area.

MR. YAREMKO: What would be the total number of contracts which you have negotiated, or are a party to on behalf of all of the eight or nine locals?

MR. DODDS: There is a lot of them, sir. I would have to ask Research for that. I could not give you that verbatim.

MR. YAREMKO: Could you give us a rough idea? Would there be one hundred, two hundred?

MR. DODDS: I do not know anything about that. Local 938, I don't know how many they would have. We have 82 in Local 880 alone.

MR. YAREMKO: Eighty-two in Local --- ?

MR. DODDS: Eighty-two contracts, that is right.

THE CHAIRMAN: That is Local 880?

MR. DODDS: That is right.

THE CHAIRMAN: Can you give us an idea would there be one hundred, five hundred, one thousand, fifteen hundred? Just a rough idea.

MR. DODDS: Local 880 has approximately 5,000 members. Local 938 has 5,000 members. Local 230 I would say have got another twenty. I would say there is probably 200 contracts or more within Ontario alone covering all the companies.

THE CHAIRMAN: Your Teamsters Local in Pembroke must be a very quiet organization. I live thirty-five miles from there, and I did not know there was one in existence in there.

MR. DODDS: There is.

THE CHAIRMAN: Would you tell us, Mr. Dodds, have any of these locals ever been put in trusteeship, or are any of them under trusteeship now?

MR. DODDS: I am glad you qualified that. To be put under trusteeship is something that does not happen, or has never happened in Canada to my knowledge.

There have been locals seek trusteeship and it has been granted, but only in cases where it has been sought by the local to my knowledge; with the exception of Local 230 which was in trusteeship before I came into the picture under Allistair McArthur who was the former representative.

THE CHAIRMAN: How many of these locals are under trusteeship at the moment?

MR. NISBET: I think, Mr. Chairman, if I might answer this. With the thought you would be interested in this matter, we have prepared a brief on this, just a small brief, of the ones that were in; the ones that are out; the ones that are still in.

THE CHAIRMAN: Would you care to read it? Do you have copies of it?

MR. NISBET: I have copies here for the Board. I think I have enough. (Copies are handed to members of the Board).

MR. NISBET: This brief, you will see, is prepared in the first person. Mr. Dodds I thought might read it, but perhaps if I might be permitted I will read it through rapidly.

THE CHAIRMAN: All right.

(Page 3152 follows)

THE CHAIRMAN: Fine, thank you.

MR. NISBET: We prepared that because we thought it would perhaps save some time.

THE CHAIRMAN: Now, gentlemen of the Committee, you have heard this presentation by Mr. Nisbet -- by the way, when you refer to "I", who do you mean?

MR. NISBET: Mr. Dodds.

THE CHAIRMAN: It refers to Mr. Dodds?

MR. NISBET: Yes.

THE CHAIRMAN: You have heard this presentation. Are there any questions arising out of it?

MR. MACAULAY: You say on page 5, the Local is two months behind in the premium contribution under the group insurance plan. Where is that group insurance plan located, Mr. Dodds?

MR. DODDS: City of Hamilton.

MR. MACAULAY: With what company?

MR. DODDS: I can't name the company, sir.

MR. NISBET: It is a Canadian company, Mr. Macaulay.

MR. DODDS: If it is important to you, I can find out in a matter of minutes.

MR. MACAULAY: No. I was just wondering. I was just curious.

THE CHAIRMAN: In each instance where Mr. Hoffa has been appointed as trustee, he has immediately appointed an administrator who is a Canadian citizen, I understand.

MR. DODDS: That is right. He has never interfered with us. The only thing he has ever done is supplied us with a little money and advice once in awhile when it was asked for. Never interfered.

THE CHAIRMAN: Are there any other questions at this time?

MR. YAREMKO: Mr. Dodds, on page 13, paragraph 3, you say "such employees can be assured of rather substantial financial and moral assistance". What form did that moral assistance take?

MR. DODDS: That would be encouraging them to keep the battle mother.

MR. YAREMKO: That moral assurance would just be re-assurance that was behind the people participating in any of the meetings?

MR. DODDS: Sir, let me explain it this way: that all these divisions -- say Division X was out on a legal strike, well, we have got nineteen other groups of people or divisions who are working, and in their meetings they do give moral support because if there is anything they can do to assist, such as helping out the families or visiting or in the meetings giving moral support, or something in that respect, that is what is done, and that is what we mean by moral support.

MR. YAREMKO: Without actually participating in the individual situation?

MR. DODDS: Oh, no. They don't participate.

They have their own work to do and they go about their business.

MR. MACDONALD: Mr. Dodds, I would assume from this account here that your objective is to get the unions out of trusteeship, eventually.

MR. DODDS: Definitely, sir.

MR. MACDONALD: From this account, the decision is normally left to the local members as to whether they wish to remain in or come out of trusteeship?

MR. DODDS: Oh, yes. They have the final say in all cases.

MR. MACDONALD: Let me ask you this question: why must there be at least a thousand members before it is possible to move towards an autonomous set-up? I mean you are aware there are thousands of unions that are much smaller than that.

MR. DODDS: Because of the compactness of the other groups of people. You can organize a number of people that work in a plant - fifty, seventy-five, one hundred people in a production plant, contained within -- given a small compact area. Ours isn't. Our trucks run from hither, thither and yon, I might say, and those people are living -- take, for example, Windsor, Chatham, Dresden -- all over the place, all over Essex County -- we have them in Leamington, away down into Blenheim, down in Bothwell -- all these small towns there will be three or four trucks; then into London, St. Thomas - we have to service those

people and we have to have -- then we have to have motor vehicles to do so; we have to have offices in those places. The point is, we have to have small offices in those places which cost a considerable amount of money, and a group of people to administer them in those small cities and towns; whereas, you might say, the auto workers are all contained either in Oshawa, or in Windsor, Ford in Oakville and so forth, where a large group of people can be well handled — twelve, fifteen thousand people can be looked after as easily by those people in the plants as our two thousand that are scattered all over several counties, sir. We have a lot of telephone bills, because there is a lot of telephoning between points, too.

MR. YAREMKO: Mr. Dodds, on page 11 in the Schedule, you say "Owners, Operators and Drivers, 550". What does that group consist of? Is that the group of owners that Mr. Macaulay was referring to earlier?

MR. DODDS: Yes.

MR. NISBET: Is that No. 1, Mr. Yaremko?

MR. YAREMKO: Yes. No. 1, Owners, operators and drivers.

MR. DODDS: Owners, operators and drivers. That is the group of people who were dump truck operators in the counties surrounding those cities that are named here -- Windsor, Chatham and Sarnia.

Those people have joined our organization because of the service that we have available to them. They have

their own committee, their own chairman, and they look after their own affairs. They set up their own rates because they know the industry, we do not, and then we bargain for them.

MR. YAREMKO: They are actually owners of the vehicles?

MR. DODDS: They are actually owners of the vehicles, and they operate in the manner I have just said: they have their own committee, their own chairman. We look after the grievances for them because we have a man in an automobile in the field, and they set up their own rates and then we bargain for them, acting as my lawyer here would act for me to do any bargaining for me. We just act as a bargaining agent for them and then we look after the business from there on. We control our own business. We have a similar situation in Cornwall on the Seaway down there.

MR. YAREMKO: On page 14, paragraph 3, you end up your representation by say, "The Trustee has never done anything to interfere with that policy". Now you state that you have never done anything to interfere. Now, what is the extent of your power in the event that you would want to interfere?

MR. NISBET: Mr. Yaremko, if I may just correct you, the trustee you refer to is Mr. Hoffa. Mr. Dodds is the administrator. It is a question of terms.

MR. YAREMKO: I am directing my question to Mr.

Dodds, but not referring to him specifically. What power has the Trustee to interfere? He never has, but in the event that he wanted to, to what extent does he have power?

MR. DODDS: I would say the trustee has the same power as any trustee or administrator appointed by the courts and so forth, where a company had got into financial difficulties and someone is appointed to look after the affairs of that company and to safeguard the interest of the people who might be stockholders, which our members are. It works out the same way exactly.

MR. YAREMKO: You say ultimately, his decision would be final on any matter if he so exercised his powers?

MR. DODDS: It could be final. Of course, it never works that way. You always work it out with your Executive Board.

MR. MACDONALD: The twenty-nine divisions in your local, I would judge, are acting more and more in the capacity or in the role of locals themselves. I am just a little curious on this one point. I judge from some comment of yours that one division on occasion will go on strike without the rest of the local going on strike?

MR. DODDS: It can do.

MR. MACDONALD: It can do?

MR. DODDS: Yes. That is usually the way.

There is no point why workers of Company A should strike because B's contract has not been consumated. It is a different company altogether, even though it is a division.

MR. MACAULAY: Mr. Dodds, there has been some report with reference to the Teamsters' Union signing up contracts with gravel pit owners. Do you know anything about that?

MR. NISBET: If I may interject, Mr. Macaulay. Mr. Dodds does not know too much about it. We brought Mr. Thomson here this morning for that purpose. It is a matter that Mr. Dodds has got information on only second-hand, and rather rudimentary information at that. So if you would direct your question to Mr. Thomson, I think he could help.

MR. MACAULAY: Yes. Well then, Mr. Thomson, I do not know much about it, I just read something in the newspapers about it, and I wonder if you can tell us what the story is? It seems rather unusual that the Teamsters' Union, which is a sort of transport union, would have entered into contracts with gravel pits that do not own trucks. I am just wondering, what is the connection?

MR. THOMSON: Well, sir, if you wish to get back to the --

MR. DODDS: May I interject something, Mr. Chairman, before we go any further. Permit me, Mr. Thomson. You are speaking on the surmise it is a transport union. I think we have disspelled that. It is

taking in all types of industry and other organizations. It is not a transport industry now, strictly speaking. We have many mechanics. We have even sausage stuffers and radio stations and so forth. I am sorry I interrupted.

MR. MACAULAY: That is all right.

THE CHAIRMAN: All right, Mr. Thomson.

MR. THOMSON: I suppose the reference you are making is what you have read in the press, etcetera. In 1956, the fall of 1956, a number of owner-operators in the area surrounding Toronto have withdrawn their service from these various pits because they were dissatisfied with the rates the pit owners were paying for hauling the gravel from the pits into the construction jobs. The pit owner, while he does not own any trucks, when he takes a contract sets out the price of the gravel delivered at a job, which has to cover the cost of the driver and the trucking charge involved. These people were very dissatisfied with the rates. There had been numerous times earlier in the summer when truck owners in various pits had taken collective action among themselves to try and have the rates increased for their hauling.

MR. MACAULAY: Did your locals here in Toronto or the Teamsters' have anything to do with that collective action?

MR. THOMSON: Nothing at all. Nothing at all. In the fall of 1956, a rather concerted effort was made

among these people themselves, and you must realize, sir, the truck owners in the dump truck industry especially, work for this job today, this pit today, and they go to this pit tomorrow and they go and wander around wherever there is work. There was obviously a lot of talk in among themselves and there was a general dissatisfaction, and in the fall a number of pits, the truck owners hauling out of the pits took collective action among themselves.

After they had taken this collective action and were getting their brains beat up, they approached us and asked us if we could do anything to assist them. We immediately advised them that they should return to work, and that we would contact the various pit owners with whom they had disputes in an effort to attempt to secure better hauling rates and conditions for them. They refused to go back to work, said they could not continue under the present system of payment or the present price, that the only people who were gaining by it were the finance companies who owned their trucks and the pit owners who had been -- with whom they were working.

MR. MACAULAY: Let me just ask you this: did they all refuse to go back?

MR. THOMSON: It is difficult for me to say, sir.

MR. MACAULAY: And secondly, who is "they"?

You have referred to these dump truck people as "they". How many were there and where were they located? Did they have an organization?

MR. THOMSON: Yes. They had formed an organization, sir, and set-up a committee among themselves.

MR. MACAULAY: What was the name of the organization?

MR. THOMSON: There was no formal name for it at that time. It was a division, you might say, that they had formed among themselves of the dump truck owners.

MR. MACAULAY: How many of these dump truck owners were in it?

MR. THOMSON: Well, it would be difficult for me to give an accurate figure, sir. I would estimate that at various times there would be two to three hundred people involved in this....

MR. MACAULAY: Different owners?

MR. THOMSON: Different owners.

MR. MACDONALD: Were they at this state members of the Teamsters'?

MR. THOMSON: Not when the incident first commenced. After this incident started.

MR. MACDONALD: After you started to negotiate on their behalf?

MR. THOMSON: Yes.

MR. MACAULAY: And over what area were these

dump truck owners drawn from, Mr. Thomson?

MR. THOMSON: Well, I would think, sir, that it probably extended as far west as -- oh, Oakville, possibly past that, nearly into Hamilton, and up near Orangeville and crossed in to Oshawa and down that way. Most of the gravel, as you gentlemen may know, comes out of the north of here -- out of Orangeville Hills, etcetera, and these people were in the various pits in that area.

MR. MACAULAY: What again did you say your connection with this was?

MR. THOMSON: Well, sir, as I stated before, after this trouble had started ---

MR. MACAULAY: No. What is your juxtaposition to the Teamsters' Union?

MR. THOMSON: My position with Teamsters'?

MR. MACAULAY: Yes.

MR. THOMSON: I am the representative, sir, of the Central Conference of Teamsters.

MR. MACAULAY: What is your particular knowledge of this gravel problem now? Were you in charge of it or something of that nature?

MR. THOMSON: No, sir. Our offices here in the City contain most of the locals in the City of Toronto. They are all in the one building with the exception of Local 938. I naturally hear all the things that are going on in the various Locals, and they sometimes come to me and ask my opinion on certain problems.

MR. MACAULAY: You were not in any way directing this matter?

MR. THOMSON: No.

MR. MACDONALD: You were not designated as organizer in this area?

MR. THOMSON: No.

MR. MACAULAY: That is what I mean.

MR. MACDONALD: Well, you were designated to negotiated with the companies to try to get better rates?

MR. THOMSON: Not I as an individual, sir. As I say, after they became members, through various staff members we assigned certain people to approach the owners with the committee people of their particular pit and attempt to negotiate some better conditions for them.

We met with numerous pit owners. We met with Mr. Smythe and Mr. Johnson. Mr. Smythe instructed his lawyer at a meeting at which we attended -- admitted the conditions were bad and that he sympathized with the people, and instructed his attorney Mr. Johnson to reach an agreement for these people.

MR. REAUME: Is it not a fact, obviously, that there were a large number of owner-operators who themselves wanted to be organized? Is that not true?

MR. THOMSON: Oh, definitely.

MR. MACAULAY: Were there quite a number, Mr. Thomson, who did not want to be organized, too?

MR. THOMSON: I would presume, sir, that there

were some. I don't know the number.

MR. MACAULAY: Did they want to be organized, to continue to deliver and obtain loads from these gravel pits, and was there any interference with any of them?

MR. THOMSON: I believe, sir, from reading the papers, there was some interference, but it was not with our instructions nor our guidance. We at all times counselled them not to attempt to interfere with the normal carrying out of these people's jobs.

MR. MACAULAY: Yes.

MR. THOMSON: That if they could convince them by talking to them, perhaps as truck drivers and truck owners, or talk among themselves...

MR. MACAULAY: So any of this business about trucks being put off the road and being overturned and all the rest of it certainly was contrary to any policy of the Teamsters' Union?

MR. THOMSON: Yes, sir. I know of only one instance where there was any violence and I read that in the press. I think that the committee men appreciate that if we had been in this thing to attempt to organize this group of people, we certainly would not have chosen the fall of the year when the normal construction industry is grinding to a halt, to put on any organizing drive among these people.

MR. YAREMKO: Mr. Thomson, do I get the impression that all this type of organization is outside

the limit of the Labour Relations Act? You were not certified to be the bargaining agency with any of these individual pit owners?

MR. THOMSON: No, sir.

MR. YAREMKO: This type of activity is outside the scope of the Labour Relations Act.

MR. THOMSON: I am sure, sir, that you are familiar with the Board's policy of not certifying owner-operators in places where there are less than one employee. These people, we maintain, and I think labour has generally - we have made many arguments that these people are in effect employees, that they are no different than a carpenter with a set of tools giving his services to a contractor. This man's tools are his truck; he lends himself and his truck to an individual pit owner to perform certain work; one is of no use without the other.

I think, sir, that it is unfair that these people should not have the right among themselves to take collective action to try and bring up the standards of their work, and I do not believe that it is illegal.

It does not fall within the Labour Relations Act, but these people among themselves form this group, and then, sir, it was just as if they went to someplace and said look --- they affiliate, more or less, to our group and ask us if we will represent them, the same, sir, as if we would go out and hire lawyers and so on to

represent ourselves.

MR. YAREMKO: Within this particular group, were there any participants who own more than one truck or were they all individual owners and operators of one truck each?

MR. THOMSON: I believe, sir, that it would be difficult for me to state accurately -- I believe that involved in this situation would be some people who perhaps own one or two trucks.

MR. MACAULAY: Mr. Thomson, if we go on this afternoon, and I gave you the name of a man who owned twelve trucks, would you believe that that was so?

MR. THOMSON: Well, if the man told me that he owned twelve trucks, sir ---

MR. MACAULAY: No. Would you believe that you organized a man who owned twelve trucks?

MR. THOMSON: May I say, sir, as I said before, that these people had taken this action among themselves. Now, whether during the time that they were taking this collective action there were people involved who owned more than one truck, I ---

MR. MACAULAY: Do you know whether you have ever signed up as a member anybody who has twelve trucks?

MR. THOMSON: I could not say, sir, unless I knew the man's name.

MR. MACAULAY: If I produce the name for you,

would you know?

MR. THOMSON: I could check it, sir, and determine if that was so.

MR. NISBET: Do you have the name now, Mr. Macaulay?

MR. MACAULAY: I have not got it with me. I have it written down.

MR. YAREMKO: Well, regardless of whether there is such a person or not, if someone came to you who did have twelve trucks, would you admit him to membership? Would you act on his behalf in this group?

MR. THOMSON: I think, sir, it would be necessary to break these people into various groups again. While it may be necessary, since he owns a number of trucks and since you must attempt to establish a rate out of the pit, naturally if you negotiate a rate out of the pit he is going to benefit by it the same as anybody else. I know of no instance, nor would we expect, once the knowledge became known to us, the person to drive a truck, in the several meetings at which his employees might be there. We would seek certification for him, for his company through the Labour Relations Board.

It might be, sir, that during this period of time there were certain people who came in there who had more than one or two trucks, but certainly that situation would have been cleared up as soon as the whole picture had stabilized itself to some extent.

MR. DODDS: Do you mind if I interject something. Perhaps what you are seeking is this: the owner-operators travel in Windsor, Chatham, Sarnia;-- in those three counties we have people who own more than one truck and have employment. We separate the two groups. The employees are bona fide members; the other people are affiliated with our membership. We bargain for the employee, and that employer who has one or more trucks signs a contract with the Local to pay specific wages as set out in the contract. Is that what you are seeking?

MR. YAREMKO: And then in turn, you have fulfilled something like a dual job: you bargain on behalf of the employees with the owner-operator.

MR. DODDS: Yes.

MR. YAREMKO: And then will act on behalf of the owner-operator in his dealing with the public at large?

MR. DODDS: The contractors and so forth. I might say, since we have had owner-operators in the County of Essex, I don't know of any instance that we have ever had - where we have had a work stoppage.

MR. MACAULAY: Mr. Thomson, you made reference -- I don't know anything about Smythe other than he had something to do with the hockey team, and I see his name in the paper, but I remember something about the particular case with this man -- I may be wrong -- about gravel trucks,

but I heard his case someplace, because it is a case that went in to the Supreme Court. I have an idea that Smythe was involved, I think, in some way, and I further think that the examination for discovery indicated that Smythe, if he ever did sign up in any way to negotiate, he was dragged and kicked , as Mr. Roosevelt said, into the 20th Century. You made it sound that suddenly he saw the light, that as soon as you people talked to him, that Mr. Smythe saw the light. I would rather judge he did not see the light at first; is that right?

MR. THOMSON: I say, sir, it is difficult for me to give an answer to it unless I know the individual's name, because there are some circumstances surrounding this individual which might throw a different light on it.

MR. MACAULAY: All right. But you recognize the name of Mr. Smythe. Was he dragged, in effect, or would he see the light right off the bat?

MR. THOMSON: Who, Smythe?

MR. MACAULAY: Yes.

MR. THOMSON: We approached Mr. Smythe.

MR. MACAULAY: How many times did you have to approach him?

MR. THOMSON: On two occasions, I believe, sir, that we met with Mr. Smythe or his lawyer.

THE CHAIRMAN: And he did instruct his lawyer to negotiate an agreement?

MR. THOMSON: That is right.

MR. DODDS: As I understand Connie Smythe, if he was dragged, he would sure be kicking.

THE CHAIRMAN: Is there anything else, gentlemen?

MR. MACDONALD: Have you contracts with Mr. Smythe now?

MR. THOMSON: No, sir. Not with Mr. Smythe.

MR. MACAULAY: Mr. Dodds, what is the contract? What kind of a situation, or whatever it may be, does the trustee govern itself by? Is there anything in writing as to what powers he shall have, sir?

MR. DODDS: It is set out in the International Constitution.

MR. MACAULAY: Sl all the trustee's power is set out in the International Constitution?

MR. DODDS: That is right, sir.

MR. MACAULAY: And what about the power of the administrators?

MR. DODDS: The administrator would be acting in the capacity of the trustee under his instruction, the same as -- I presume if a bank was appointed as a trustee of a company and it got into financial difficulties, that they would appoint one of their employees to administer it.

MR. MACAULAY: Is there anything in writing which sets out what your powers as administrator are?

MR. NISBET: If I might interject, Mr. Macaulay, I do not believe the word administrator is ever used. It is an expression.

MR. MACAULAY: You used it three or four times.

MR. NISBET: Yes. I mean officially. It is an expression that has been coined to describe the gentleman who is there, the on-the-spot representative of the trustee.

MR. MACAULAY: That is fine. But is there anything to show what powers the gentleman on the spot who is the representative exercises?

MR. MACDONALD: He would have the same powers as the trustee.

MR. DODDS: He is the trustee's representative.

MR. MACDONALD: That is obvious.

THE CHAIRMAN: Is there anything else, gentlemen?

MR. MACAULAY: Yes, Mr. Chairman.

THE CHAIRMAN: Continue, Mr. Macaulay.

MR. MACAULAY: Mr. Dodds, I would like to obtain some expression of your own view on this question of trusteeship. It is something which has always concerned me, and I am greatful to you that you went to the trouble of preparing this memorandum because it is very helpful. You say on page 13, sir, as one of the reasons why trusteeships are a good thing, or perhaps

one of the beneficial characteristics, is that it commits the affairs into the hands of persons who are experts in labour relations. Well, if that were so, would it not be better if every local and every union were in trusteeship?

MR. DODDS: I would not say so, the fact that a local gets into trouble, financial or otherwise --

MR. MACAULAY: You mean it is better if it is in the hands of experts once it has gotten into trouble; is that what you mean?

MR. DODDS: I would think so.

MR. MACAULAY: So that would be a qualification of that first item, then?

MR. DODDS: I would think so.

MR. MACAULAY: Yes. Now, under the second item, you say it produces a state of superior stability in Labour Relations. But it is true there are lots of locals, both in your union and in other unions, where there is stability and there is no trusteeship.

MR. DODDS: That is correct.

THE CHAIRMAN: Is there any instance of a trusteeship except where the local has been in financial difficulty?

MR. DODDS: None that I know of, sir.

MR. MACAULAY: Except the one that you yourself cited where it started out as a trusteeship?

MR. DODDS: And I say I have no knowledge --

no reason to my knowledge why it was that way in the first place.

MR. MACAULAY: Then, you say in your No. 3 that the employees can be assured of rather substantial financial and moral assistance. Where does the trusteeship get the money to give the financial assistance?

MR. DODDS: Where does the trustee -- you are dealing with that phase of which I don't understand you.

MR. MACAULAY: Well, you say, sir, under No. 3, "such employees can be assured of rather substantial financial and moral assistance". Where does the substantial financial assistance come from?

MR. DODDS: A trusteeship is normally in the position to provide that.

MR. MACAULAY: Not out of his own pocket.

MR. DODDS: He can obtain money from the International.

MR. MACAULAY: Well, that is my point. Would not that money from the International be made available to the local apart from the fact that it has a trustee there?

MR. DODDS: A trustee can do one of two things: he can either provide the money from his own local at the wishes of his membership, or he can, if he so desires, I imagine - I don't know, I don't think it has ever been done - secure a loan from the International.

MR. MACAULAY: No. But you are suggesting

that you can get substantial financial assistance when there is a trustee. Can the union local get a substantial financial assistance when there is no trustee?

MR. DODDS: Not when it has been run in such a manner that would indicate they are not responsible people. It would have to be a good risk.

MR. MACAULAY: And the argument of moral assistance is on the same basis?

MR. DODDS: Certainly if the thing were run properly, the morale of the people would be up.

MR. MACAULAY: So, in short, No. 3 is very much against a local that has badly handled its financial affairs or has shown irresponsibility in some way?

MR. DODDS: That is correct.

THE CHAIRMAN: And the trusteeship is only created at the request of the membership of that local?

MR. DODDS: In all cases except Local 230, of which I have no knowledge.

MR. MACAULAY: Just one other question, Mr. Dodds. Let me clear up the expression of your view in relation to the principle of trusteeships. Am I putting this fairly to you when I say that you believe that trusteeships are good instruments where there has been mismanagement of a local's affairs or some show of irresponsibility which could bring the whole union into disrepute?

MR. DODDS: You can say "yes" to that. I am sure the history of these locals that have been set forth here answers that question.

MR. MACAULAY: Yes.

MR. DODDS: I am sure -- actually there are many, many things that have not been set forth here that we have had to deal with.

MR. MACAULAY: Yes.

MR. DODDS: And the fact we have been able to take locals that were in debt, poorly managed and put responsible people at the head of them, secure good contracts for our membership who we have our first responsibility to - not only just to bring them out of debt, but to get them fair contracts...

MR. MACAULAY: Yes.

MR. DODDS: Those things, I think, can be handled or can be said because of the experience that we have had - with 647, 230, 879, 880 - any that we have had, we have definitely made good progress with those locals, which should speak for itself, sir.

MR. MACAULAY: Well, I think it does. Don't you at the same time think it is in the interest of the entire labour movement that when the causes of creating the trusteeship -- namely, bad management and financing or irresponsibility -- have been corrected, that the trusteeship should be terminated?

MR. DODDS: I think that it should be done

just as soon as the picture has cleared up, and the financial picture and the responsible people are then in office, and then the wishes of the members or the stockholders should be considered, and at any time that they so wish at that time, I would be one of the first, and I am sure Mr. Hoffa would be, to recommend that those locals come out of trusteeship.

MR. MACAULAY: So, so long as the local is in good hands, that is to say, it has been well run but the local membership does not want to get out of trusteeship, you believe, as a principle, that it should continue in trusteeship?

MR. DODDS: I think so, yes.

MR. MACAULAY: And that that therefore could mean within a life expectancy of some considerable number of years?

MR. DODDS: Could be.

MR. MACAULAY: Is it true, Mr. Dodds, that the Teamsters' Union, as a union, has more locals in trusteeship than any other union of comparable size or of any size?

MR. NISBET: Are you speaking of the American picture as well?

MR. MACAULAY: Yes, I am.

MR. NISBET: Well, we have no knowledge of the American picture at all. I thought at the time that this matter was considered, the appearance before the Board,

whether it would be worthwhile to try to inform the Board as to the American picture, and then I discovered I did not know anything about it. I doubted if Mr. Dodds or Mr. Thomson knew much more.

MR. MACAULAY: You could have looked under your Constitution.

MR. NISBET: Yes. We are under the same Constitution.

MR. MACAULAY: One of your constitutional documents sets it right out on the same page.

MR. NISBET: Yes. We know about that, but as far as the experience in the United States is concerned, Mr. Macaulay, we don't know anything about it at all.

MR. MACAULAY: I did not mean experience.

MR. DODDS: Let me answer it this way: there are no records available to myself to indicate how many locals there are in trusteeship. I am only concerned in the area of which I am a director, and I have never sought any information in something that really did not concern me.

MR. MACDONALD: Mr. Dodds, you yourself have stated it is desirable, once the circumstances will permit, to move out of trusteeship, subject only to the qualification that the local members must so vote, if they want to do that. Have there ever been occasions when you became persuaded that conditions have so changed, the financial position and so on, that you sought to persuade them that

now is the time to get out and stand on their own feet?

THE CHAIRMAN: There is an instance of it here and they refused.

MR. DODDS: Two, we h ave had. One we had, 647, that did go back into its own autonomy; 880 and 879 have both taken the same position, just at a meeting lately the officers were given a rousing hundred per cent. vote of confidence in local 880.

MR. MACDONALD: Have you ever done this, for example -- taking the calculated risk of saying, "Look, ultimately it is your responsibility to stand on your own feet; we feel we have fulfilled our function as trustee in bringing order out of the eternal chaos, and now, in effect, you are on your own"?

MR. DODDS: My principle would be, sir, there must come a time when they will have to be told that you have reached maturity and you have to stand on your own feet. If those people at that time -- I doubt very much if you made it that decisive that those people would say no, we want to remain in. I think when they were given the picture that they were completely out of debt, they had good officers and good contracts, I think it would be reasonable to assume at that time that they would want to come out, but I feel they have been given an opportunity of two locals which want to operate the way they want at the present time.

MR. MACAULAY: Don't you think Local 880 has good officers, good contracts and is out of debt?

MR. DODDS: I don't feel 880 is out of debt, no. I think they have good officers, because I am the president.

MR. MACAULAY: Well, isn't 880 the one with forty thousand assets and three thousand liabilities?

MR. DODDS: It has assets you can't spend, though, of course.

MR. MACAULAY: Well...

MR. YAREMKO: Mr. Dodds, in regard to 880, you are the president of local 880?

MR. DODDS: That is right.

MR. YAREMKO: And at the same time you are the administrator of the trustee of 880?

MR. DODDS: That is right.

MR. YAREMKO: And this decision that was reached on December 19th, that was at a meeting of the stewards. How many stewards would there be?

MR. DODDS: At that meeting there was close to eighty.

MR. MACAULAY: Are you a steward, Mr. Dodds?

MR. DODDS: I am a steward of the people.

MR. MACAULAY: So therefore, you voted to continue...

MR. DODDS: I was chairman of the meeting. I am not a steward in the sense, perhaps, in which you are

putting it. I am a steward of the trusteeship. I am a steward of the people because I work for them, but being chairman of the meeting, you know quite well that a chairman does not vote, only in case of a tie.

MR. MACAULAY: You say one hundred per cent. of the officers voted for it. I am just using your own words.

MR. DODDS: I don't think you want to misconstrue it that way.

MR. YAREMKO: This meeting on December 19th, that was a meeting of the stewards?

MR. DODDS: Steward body, yes.

MR. YAREMKO: And you put the proposition to them for coming out of the trusteeship?

MR. DODDS: Yes.

MR. YAREMKO: And it was the stewards themselves, without having gone back to the membership at large, the stewards on the spot said "no, we would like to continue the trusteeship"?

MR. DODDS: That is right.

MR. REAUME: That is obvious. What point are we trying to bring out?

MR. MACDONALD: We are not trying to bring out any point.

THE CHAIRMAN: Gentlemen, if you are not trying to bring out any point, let us not waste any more time.

Are there any more questions on this point,

gentlemen?

MR. YAREMKO: Not on this point.

THE CHAIRMAN: Just a moment, if there isn't. Are we on this brief still?

MR. YAREMKO: Yes. Just one final question, on page 11, in regard to the statistics there, just so that I am clear. Mr. Dodds, we have established the owners, operators and drivers; that is a special classification. We come now to "fruit and produce", and we take it from that that there are 69 members of your union who have contracts with fruit and produce, employers who are in the fruit and produce business.

MR. DODDS: Yes.

MR. YAREMKO: And then "Car haulers" down the page, "Transcontinental (these men are mostly brokers)".

MR. DODDS: That is the western.

MR. YAREMKO: Do they own the vehicles they drive?

MR. DODDS: They have a strange setup, leasing operation. Some of them own their own tractors and they lease the trailer equipment from the employers on the basis that we have contracts covering all phases of it. Whether a man owns his own tractor and trailer, we have a contract covering him. We have a contract covering the man who owns his tractor but leases the trailer, and there's about three different phases of their operation. A lot of them coming out of the Western Provinces are

brokers.

MR. YAREMKO: Now, one final question. Of the total of 4,193 that you have there, they come into contact with employers, those employers have other employees. Can you give us a rough estimate of the number of employees in the employment of those employers of which you have contracts? Would it be one hundred thousand, two hundred thousand employees?

MR. DODDS: I have not any idea.

MR. YAREMKO: You have not any idea?

MR. DODDS: No.

MR. MACAULAY: How many stewards, Mr. Dodds, attended the meeting of December 19th, 1957?

MR. DODDS: I don't have the roster with me.

THE CHAIRMAN: He said about eighty.

MR. DODDS: It was in the neighbourhood of about eighty.

MR. MACAULAY: Eighty?

MR. DODDS: Yes.

MR. MACAULAY: Thank you.

THE CHAIRMAN: Any further questions on this brief? - otherwise I understand Mr. Jackson has a question or two he would like to ask about.

MR. JACKSON: I am going back to the secondary boycott, and I wanted to get your opinion as Canadian Director of the Teamsters' Union as to what would your reaction be if legislation were passed outlawing the

secondary boycott. Do you feel it would have any adverse or detrimental effect on labour unions?

MR. DODDS: I don't know. I don't see how you could ask me to answer something that is unknown to us all. Certainly we want to live under whatever act is enacted by those people who are empowered to do so. It would be very difficult to say. Some days I think I would be most happy if there were no Labour Relations Act; other days I think I am quite happy with the one we have in existence because it has many, many good points. I don't think that any group of people or body or men will ever be able to sit down and legislate so that you have it one hundred per cent perfect, a situation covering all instances where the same thing according to today, will have a different aspect tomorrow. I think that would be -- well, it will never happen in your lifetime or mine.

MR. JACKSON: Well, I am only talking about the one instance, which is this question, obviously, of boycott, and I would think that you would either have a feeling of "no, I don't think it will have any effect, or yes, I think that it will have an effect".

THE CHAIRMAN: You see, Mr. Dodds, it has been suggested to this committee in previous briefs that secondary boycott should be outlawed and we should pass legislation not permitting them. Now, do you have any feelings or any opinion on the matter one way or the

other?

MR. DODDS: Well, I suppose if I had had many years of experience to bolster my words, that I could come forth and say. But I have never used it as an instrument, personally. I don't know what value it would have to me. I could conceive, perhaps, in my imagination, that it might be of real value to me.

On the other hand, I am the type of person who likes to stuff his own snake, and that is why I say, sometimes I wish we didn't have an Act. I would rather deal with the employer directly. And I can say this: I have as many friends in the employer groups as I have among labour, and I have never had any reason to employ this thing. Personally, I think it would be rather difficult for me to say.

MR. MACDONALD: Mr. Dodds, would it be accurate for me to say that your participation in secondary boycotts to the extent that you have arises in most instances because of the extreme danger involved in driving a truck through a picket line?

MR. REAUME: That is what he said.

MR. DODDS: That has been said previously, and I feel very strongly on that matter. Not only is it a danger to our members, but it is a real danger to the public at large and to property.

MR. MACDONALD: The only point I am making is, and I recognize you said this before but this is a

comment you have made and it is a pertinent comment in relation to your reaction to the secondary boycott. In your position, the situation is just that your members are driving trucks, and to say to them that they are not to engage in secondary boycott is tantamount to saying they will drive through the picket line.

MR. DODDS: I don't think that is correct. I qualify, whenever they approach the line, they are to take into consideration the element of danger.

MR. JACKSON: I am thinking not only of the picket line, I am thinking of the refusal to halt.

MR. MACDONALD: This depends on our definition of secondary boycott.

MR. WREN: Mr. Chairman, on a point of order, might Mr. Jackson be permitted to complete his questioning without interference?

MR. JACKSON: I have another reason for asking you, sir. There has been an inference in briefs presented to this committee that the locals of the Teamsters' Union condone violence and have no regard for the property of others, etcetera. That has been presented on one definite occasion, and I have in mind the brief presented by the Canadian Vitrified Products. Now, is this statement true?

MR. DODDS: It is not in that language.

MR. JACKSON: I say the inference that is there.

MR. DODDS: Absolutely not.

MR. JACKSON: Do you confirm or deny that the Teamsters had anything to do with any violence at the Canadian Vitrified plant?

MR. NISBET: Once again, sir, we have prepared a short statement on that which we will give to the Board with your permission, Mr. Chairman. It is very short, if I may be permitted to read this, sir.

THE CHAIRMAN: Yes.

MR. NISBET: (Reads Exhibit 2).

THE CHAIRMAN: Yes.

MR. JACKSON: And yet we find in this brief that is appearing before us this afternoon, in Exhibit "C", where Mr. Dodds paid the driver for his lost of time.

MR. NISBET: That is so, sir.

MR. JACKSON: And a bonus to boot.

MR. NISBET: Ten Dollar bonus in each case.

MR. JACKSON: What was the bonus for?

MR. NISBET: Just a moment. I have the letters.

MR. JACKSON: You say the Union was not involved, and here it looks like evidence that it was involved.

MR. NISBET: Yes, we have the letters here.

THE CHAIRMAN: The point is, it was no concern of local 880. Why should Local 880, through its president,

see fit to pay these employees who had been suspended by their employer without pay?

MR. DODDS: It was an action by the employer who said that they were. The police took no action against those people.

THE CHAIRMAN: If it was no concern of Local 880, why should they interfere with it by paying these men?

MR. DODDS: They said our people were unjustly dealt with.

MR. JACKSON: Did you agree they were unjustly suspended?

MR. DODDS: It never came to trial. Nobody ever found that they were guilty of anything. They just arbitrarily suspended them for a full week.

MR. JACKSON: Well then, you say the Teamsters, as far as the local is concerned, took no part in the St. Thomas affair?

MR. DODDS: Had no interest there whatsoever.

MR. JACKSON: Have you any disciplinary ---

MR. DODDS: It says we were attempting to organize them. That is an outright falsehood.

MR. JACKSON: If this was brought to your attention, that this situation existed, for example, using of a truck for breaking through the picket line, or I think the case cited in the brief was that a truck of Husband's was used to block the roadway, would you have

any disciplinary action, or would you take any disciplinary action against a driver or against the man who made the driver do it? Apparently it was also brought up in the brief that it was also a member of your union?

MR. DODDS: Do you think I would have authority to do something of that kind?

MR. JACKSON: I am asking. I don't know.

MR. DODDS: I have authority to do what I did.

THE CHAIRMAN: Well, had these men been prosecuted and convicted, Mr. Dodds, had they been convicted under the Criminal Code, what if any action would your Local have taken in connection with these men?

MR. DODDS: None whatsoever.

MR. MYERS: Did you take a statement of the facts yourself?

MR. DODDS: Our local representative on the spot did.

MR. MYERS: He took the statement of the men, but did he take anybody else's statement to verify it?

MR. DODDS: I would not know, sir. I never queried him on that. The same people, sir, who made the investigation took it up with the companies after they were suspended.

MR. MYERS: Did they send you a report?

MR. DODDS: Well, they recommended to me -- they said to me they felt the suspension was unjustified,

and we did what we did.

MR. MYERS: But you do not have any particulars of what investigation was made?

MR. DODDS: No, I couldn't quote...

MR. JACKSON: I have a note here from the driver who says "I was driving on the roadway, I was stopped by Joe Briggs of the Teamsters' Union who told me he could use the rig to advantage and said that I block the roadway".

MR. DODDS: I don't know what the letter is. I have never seen that one.

THE CHAIRMAN: Who is Joe Briggs?

MR. DODDS: Former representative of ours. He is not with us now.

MR. JACKSON: But you would take no action against him if that is --

MR. DODDS: If it is proven by law. If they had taken any, he would have got no help from me. But the people on the spot, the police didn't think that those people deliverately did something, then who am I to say they did.

MR. MACAULAY: You said if they had been convicted, you would not have done anything?

MR. DODDS: I say if it was proved in court they had been guilty of wrongdoing, they would get no help from me in that respect.

MR. JACKSON: Apparently you would know of this

happening. All you say you know is that the man was unjustly accused.

MR. DODDS: That is the report I got, yes. At the time I was out West when this happened, and when I come back, I saw their recommendation and I agreed to forward it to the executive.

MR. JACKSON: Let us get back to my original question. Did your union condone it by just saying "this is nothing to do with me"? Is that not in a sense condoning an action such as this?

MR. DODDS: I would not think so. We don't condone any of that.

THE CHAIRMAN: What Mr. Dodds has said, if they were prosecuted and the men were convicted, they would get no help from them. That is, as I understand it.

MR. DODDS: No sympathy either, that is correct.

MR. JACKSON: It is a negative approach.

THE CHAIRMAN: Any further questions, gentlemen?

MR. YAREMKO: In regard to this letter which was written to the driver of the Husband Transport Limited - I won't read the whole letter...

MR. DODDS: I don't mind. I am not a bit ashamed of my action.

MR. YAREMKO: To save time, I won't read the whole letter. You say, "...by what appears to be a

childish and frustrated attempt by your employer to discipline you for being a conscientious Union Member".

MR. DODDS: I think they were frustrated. I think the Company felt frustrated or something like that. I would say it is evident, gentlemen, that had neither one of those drivers been members of any union, there would have been no action taken by the Company to discipline them. That is my opinion. I run into it so many times and so many cases that it has become a conviction with me.

THE CHAIRMAN: Any further questions, gentlemen? If not, Mr. Dodds, on behalf of the committee, as its Chairman, I want to thank you, Mr. Nisbet and Mr. Thomson, for appearing before us this morning. Your remakrs have been very helpful, and you have cleared up many misconceptions under which some of the members of this committee have been labouring, and I shall assure you that what you have said will receive our very careful consideration. Thank you very much.

MR. MACAULAY: There are not any other briefs that you care to submit in case you raise an argument?

THE CHAIRMAN: They have asked to submit a brief in answer to the next brief we are going to hear, and they have undertaken to present that before ---

MR. MACAULAY: Today. You did not indicate that you had brought two briefs with you. Did you happen to bring any more in anticipation?

MR. NISBET: No, sir. The reason we were able to do that was through the fine co-operation of the registrar of the committee. We asked him in advance in a letter what specifically he wanted to know, and we prepared for those things.

THE CHAIRMAN: Mr. Perkins asked me what information you sought from him, and I authorized him to indicate to you what the committee had in mind.

MR. NISBET: Yes, sir. It was only because of his act that we were able to come as well prepared as we did.

MR. DODDS: Mr. Chairman and gentlemen, I want to say to you it has been a pleasure to be here, and I want to thank you for the kind and considerate manner in which you have handled this problem.

THE CHAIRMAN: Now, Mr. Perkins, the next matter?

Will the members of the Motor Transport Industrial Relations Bureau of the Automotive Transport Association of Ontario, Inc., please come forward?

May we have the names of the gentlemen who are appearing before us?

MR. KINGSMILL: My name is Nicol Kingsmill. I am really here to help Mr. Murray. I will not take any actual part in the argument because I know very little about it.

THE CHAIRMAN: And who is the other gentlemen

with you?

MR. KINGSMILL: Mr. L. G. Teakle, Chairman of the Motor Transport...

THE CHAIRMAN: Yes?

MR. KINGSMILL: Mr. F. W. Murray, manager of the Bureau.

THE CHAIRMAN: Gentlemen, the manner in which we have proceeded up to this point in dealing with these briefs, is, if some member of the delegation would be kind enough to read them in their entirely, and then when the reading has been concluded, you will, of course, permit yourselves to be questioned by the members of the committee.

-- (Brief read by Mr. Murray and Mr. Teakle)

THE CHAIRMAN: Gentlemen, it is now one o'clock. We will adjourn until two o'clock.

(page 3250 follows)

---On resuming at 2.00 p.m.

---Mr. Maloney, Chairman

THE CHAIRMAN: Gentlemen, it is now two o'clock. I see a quorum. At the noon adjournment we had reached that point in the brief at page 25 just starting with "Conclusions and Recommendations". Mr. Murray?

MR. MURRAY: Mr. Teakle will continue, Mr. Chairman.

---(Mr. Teakle reads remainder of brief.)

THE CHAIRMAN: Thank you very much, Gentlemen. I don't think it is necessary to read the Exhibits. We can read those for ourselves. If there is any occasion to do so, of course there can be reference to them in the questioning.

Now, then, Gentlemen, in the usual manner, are there any questions arising out of page 1 of this submission? Page 2? Page 3 - "Basis for Labour Relations Legislative Policy"? Page 4 - "Changing Authority, Influence and the Result"? Page 4 - "Effect of Despotic Union Constitutions and By-Laws"? Page 5?

MR. MacDONALD: A small point, Mr. Chairman.

It would seem to me that your statement would have been stronger if you had left the word "capricious" out. One of the problems of any organization is the responsibility of avoiding capricious decisions taken ill-advisedly by rank and file. It seems to me it should be the opposite of that.

THE CHAIRMAN: Where is that?

MR. MacDONALD: On page 5 about the middle of the

page.

MR. TEAKLE: There might be a bit of a sarcastic note in that.

MR. MacDONALD: Oh, I see.

THE CHAIRMAN: What evidence is there, Mr. Murray or Gentlemen, to substantiate the statement that Mr. Dodds has never been elected to any office by the membership of the Teamsters Union in Canada or in the United States?

MR. MURRAY: We should clarify that, Mr. Chairman. We are not singling out Mr. Dodds as taking an advantage of the situation. We are citing it purely as a case in point, that the appointment or the selection of union officers is not, in many trade unions, today by an election of the membership or by process of election within the membership. I believe our statement is correct that Mr. Dodds has not been elected. It is not uncommon; he should not be singled out for special treatment. He is just used as an example of how a person can reach an office without going to the polls.

MR. REAUME: I think in almost every instance people who are appointed to jobs on the staff as organizers and things of that sort are appointed, of course, by the Automobile Workers or any other union. It isn't only this union, but any union. They don't run for office; they are appointed to office.

MR. MURRAY: I think their presidents are elected.

MR. REAUME: Probably presidents, yes.

THE CHAIRMAN: How is he appointed, do you know,

Mr. Murray?

MR. MURRAY: Well, there was an example given this morning. Mr. Dodds' appointment, whether initiated by the executive, in any event was approved. Whether it was initiated by Mr. Hoffa or a local which up to that time or for some years had been in trusteeship is not clear. In any event, he was given his position.

MR. WREN: You state he was not elected president of his own local?

MR. MURRAY: That's right, by the membership.

MR. WREN: You are certain of that?

MR. MURRAY: Yes, I am certain. I don't think Mr. Dodds would question that.

MR. JACKSON: On these pages we are reading from now, don't you feel there is perhaps a danger here in that you are dealing with the internal workings of an organization?

MR. MURRAY: Yes.

MR. MacDONALD: I don't want to get into the questinn of whether it is voluntary or involuntary, closed as against non-closed shop, but how do you propose legislation to be enacted that would in any way affect the internal workings of an organization?

MR. MURRAY: Could I pose this, Mr. Chairman? In much the same way that legislation has been enacted to control, within certain limits of behaviour, the actions of companies, of corporations.

MR. JACKSON: You are really then speaking of making them responsible to civil rights and to laws?

MR. MURRAY: Yes.

THE CHAIRMAN: Just to make it clear, Gentlemen, I don't think this Committee has the power, nor is it within the terms of our powers under our terms of reference, to look into, deal with or concern ourselves with or legislate upon the inner workings of any union.

MR. JACKSON: I was just making that very point.

THE CHAIRMAN: They all operate according to their own constitution and we have nothing to do with it.

MR. MURRAY: I think that is quite right and that should be the position that the Committee should assume. On the other hand, the Legislature has laid down certain minimum standards of behaviour for other undertakings.

THE CHAIRMAN: That is under a different Act entirely, the Companies Act, where you have people investing money, where you have shareholders, where they are out for profit, that sort of thing. We understand that a labour organization is not designed for that purpose. While it is true that some of them have become very powerful financially, that probably results from their own good management of their organization. But I don't think our terms of reference give us any right, certainly we don't have the authority, to look into the inner workings of any union.

MR. TEAKLE: In our brief we are stressing in the early stages the imbalance or unbalance of power at the present time between an employer group and the unions. We are merely suggesting something that would be corrective. That is what we are thinking of.

MR. JACKSON: I think you are probably laying the background coming to the point you make later on of the licensing and the responsibility.

THE CHAIRMAN: Well, that is an entirely different matter, of course.

Page 6, Gentlemen? Any question on the Tunney v. Orchard et al case? Page 7? Page 8?

MR. MacDONALD: Of course, Mr. Chairman, there is one problem with this plea that a man earning $40 or $50 a week hasn't the means for availing himself of an appeal throughout. This is a general problem. I mean I am not denying the validity of this but by the same token a man earning $40 or $50 a week who may have been unjustly accused and convicted may not have the means for appealling his case to the courts of the land.

THE CHAIRMAN: Then the great legal profession, through its legal aid programme, comes to his rescue.

MR. MacDONALD: Not on all occasions.

THE CHAIRMAN: On all occasions.

MR. MacDONALD: On appeals?

THE CHAIRMAN: On appeals or anything else.

MR. TEAKLE: I think this is more serious, in that it deprives a man of working in his chosen profession or trade, sir.

MR. MacDONALD: Of course sometimes the consequences of what a man feels to be an unjust conviction are tantamount to depriving him of work. I am not denying the validity of your point there but this is a general problem that not only

has application in appeals to constitutional procedures; it is a matter of whether you have money enough in your pocket to pursue it.

MR. TEAKLE: In this particular case it forces him out of his employment or any other employment as a teamster.

THE CHAIRMAN: May I submit this is hardly a point submitted by this delegation but it is a finding made by the Manitoba Court of Appeal from which the quotation is made.

MR. MURRAY: Mr. Chairman, could we say in reference to that that we are not denying that we have such agreements. I think that those agreements would continue to flourish. They probably will with the existing legislation. There is no question about that. That is the union security agreements of the type we are discussing here. But, quite honestly, I don't think we would be making an issue of it today if it were not for the number of abuses that we have seen and experienced ourselves.

We know that there is a lot of argument about it, that it has been argued in thousands of tribunals and by hundreds of thousands of people, about the merits and demerits of various types of union security but the abuses that we have experienced have led us to believe that some corrective procedure is necessary. It is now out of our hands.

THE CHAIRMAN: What you say in effect is that the closed union shop violates the principle that a trade union is essentially a voluntary organization?

Page 9?

MR. JACKSON: At the bottom of page 9 you say:

"Employees have been threatened with

"the loss of their job if they fail to

"perjure themselves in the presentation

"of testimony in disputes involving

"other members."

MR. MURRAY: We can cite cases of personnel -- say a grievance case -- where personnel have been told by the union either not to appear or to appear and say only thus-and-so. "Otherwise you'll be acting against a member or brother; you'll be giving evidence against a brother." That is the sort of thing. And that is taboo.

MR. JACKSON: When that came to your attention was there any action taken?

MR. MURRAY: No.

THE CHAIRMAN: Can you tell me why, if you are aware of the fact that a man has been suborned to perjury, you would do nothing about it?

MR. MURRAY: I think our basic thinking on this thing is that we are for the most part powerless with the existing legislation.

THE CHAIRMAN: Oh, no.

MR. MURRAY: I think so.

THE CHAIRMAN: Oh, no. Perjury comes under the Criminal Code. If you know that it is being committed or a man has been suborned to commit perjury, then as a citizen I would think it would be your duty to report it.

MR. MURRAY: I think by the time it got to court

action in these particular cases the man's statements would have been changed considerably.

MR. MacDONALD: If you are too poor to pursue it you would get free legal advice.

MR. MURRAY: So I understand.

THE CHAIRMAN: The Crown is always available in those cases, Mr. MacDonald. And if, Mr. MacDonald, at some time you find yourself in the toils of the law and without funds I can assure you I can have you adequately represented.

MR. MacDONALD: That is what I would fear, I can assure you.

THE CHAIRMAN: Page 10, Gentlemen? Page 11?

MR. MacDONALD: With reference to page 11, I would assume that this is implied in your statement but let me make dead certain that it is your view. Your feeling is that an owner-operator under any circumstances should not be eligible for organization under the Labour Relations Act?

MR. MURRAY: In our opinion there is a conflict between the position that the owner-operator may be in and the public as a matter of policy, and we have in mind the Combines Investigation Act. The Combines Investigation Act and certain other legislation says that people will conduct their businesses in a certain manner and if they do certain things they are acting unlawfully in their businesses. And the owner-operator is in a business. He should, we think, be subject to those limitations.

On the other hand, we have -- and we are

certainly not denying the justification for it -- the exclusion of workmen from prosecution under those provisions. And when we refer to workmen, we mean truly workmen within the meaning - every conceivable meaning: are they eligible for workmen's compensation? How do they stand employment insurance-wise? Etcetera, etcetera. There are certain established measuring sticks.

I don't think we are in the rebuttal position at this juncture but Mr. Thompson suggested that there were certain individual operators who had a problem with the people for whom they did business. In other words, these sub-contractors had a problem with the people, the contractors of their services. There are, we believe, normal business practices within the confines of public policy that those people could turn to. We believe there is a procedure that those people could turn to to right whatever wrong there may or may not exist.

I am sure you people are not here today -- and certainly we are not -- to discuss the problems of the dump truck operator in terms of his revenue. He may or he may not have a problem in that respect. I know our Association at one time felt that they did. But nonetheless we feel that those people, if we are to be at least consistent in the application of public policy, should be excluded from participation in a trade union.

MR. MACDONALD: Let me isolate it. Maybe you have answered my question but I have missed it ---

MR. MURRAY: We said employers. That is this case that was involved this morning. As to people who have additional trucks, I don't think there is any dispute that they should be excluded from membership.

MR. MacDONALD: But you, in effect, are saying that even the man who owns only one truck should be excluded too.

MR. MURRAY: Precisely. If at least, Mr. MacDonald through the Chairman, we are to be consistent in the application of public policy.

MR. MacDONALD: What is your reaction to the argument that has been used -- and it obviously has a degree of validity -- that a man who comes and offers himself for hire, and he won't be hired unless he has a truck, is in essentially the same position as the carpenter who offers himself for hire and he won't be hired if he hasn't got his tools?

MR. MURRAY: I don't think that is quite so. There is a completely different relationship there. I personally think if you hire a carpenter to repair, to make some repairs or alterations to your house you are in this position: you don't consider him as your employee, do you?

THE CHAIRMAN: If you hire him?

MR. REAUME: Sure you do.

MR. MURRAY: Your employee? Or your contractor?

MR. MacDONALD: On a short-time basis?

MR. MURRAY: I admit you may be paying some

of these risks that may be involved but are you then subscribing to workmen's compensation, unemployment insurance, etcetera, on behalf of that man? Obviously you are not. I think that is so.

THE CHAIRMAN: Even the owner of a truck now can get compensation for himself.

MR. MURRAY: Through underwriting outfits.

THE CHAIRMAN: No, the Board will automatically put him under the Workmen's Compensation Act if he applies for it.

MR. MURRAY: That is correct, Mr. Chairman.

THE CHAIRMAN: Yes.

MR. MURRAY: But you will find in most cases, 99 out of a 100, he is not seeking that, that his insurance problems are handled through normal underwriting channels; that is,insurance individually sought and policies covering it.

THE CHAIRMAN: I know of cases where they have applied for it. Unfortunately one poor fellow had it and dropped it and then he was killed and didn't come under it. We had a big investigation over it, and we tried to appeal it.

MR. MacDONALD: It seems to me the key point here is that the normal relationship of management and labourer, somebody who offers himself for hire, is duplicated in the relationship of a single owner. For the moment I just keep it to that. This is becoming so widespread too,

I don't think we can ignore it. You say it is a matter of uncertainty. I don't think we can ignore it. The confusion rests all along the line right up to the suggestion of the Minister in the House one time, as to the people up in northwestern Ontario, that if they got together in an association he thought they could be accepted. These were owners hauling pulpwood. In the application of the Act up until now that has not been the case. And they are not alone; there are other examples that come to my mind. The people who deliver the papers for the newspapers used to be directly hired by the newspaper; now they are owner-operators and are therefore excluded.

This, in effect, becomes a means of circumventing the right to collective bargaining if we continue the Act as it now is.

MR. MURRAY: Or, on the other hand, we could put the reciprocal situation in answer to that. You say it could be a means of circumventing a process of collective bargaining. That is quite true. It would be a means of circumventing collective bargaining,as you know it, between trade unions and management. It would stop that situation, that is quite correct. But I don't think it would stop the normal relationship between a contractor and a subcontractor. We find in our experience that it is an impossible position to maintain.

Now, it is true, for example, in the Teamsters in the United States they have it now. After they had a very large number of what they called "brokers" organized

there seemed to be some vacuum there; they weren't doing anything. So there was an effort made and there were actually contracts signed. They are known as "broker contracts". Believe me, they are, because of the relationship, quite unenforceable because an individual owner goes to the trucker and says "There is a load to take to Denver, Colo. It has oranges in it." And he says "I'll take it at this price." It is regardless of any contract that may or may not exist between the licensed carrier and the trade union. As a matter of fact, I am not at all sure -- at least, I am inclined to feel that such contracts are not enforceable and where they have been written, they have been written purely for the excuse of being able to say "We've got a contract; we are representing you."

MR. MacDONALD: It may mean that the existing trade union acts haven't kept up with the varied patterns that are emerging in the industry where the organization takes place. I mean a man has a truck, and he may have to work in six different places in six succeeding days. I presume the broker arrangement has emerged so that instead of spending part of today looking for tomorrow's job he can work all day and go to the broker and know exactly where he is going the next day.

MR. MURRAY: One other point, too, Mr. MacDonald, that you mentioned was rather interesting. That was the circumvention of the process of collective bargaining as between management and a trade union. I think

actually the permission or the continued permitting of the owner-operator to be a member of a trade union and to conduct himself in the manner of a trade union -- that is to follow out the policies and procedures that a trade union would follow -- I think it could conceivably be a circumvention of the Combines Investigation Act. In other words, it is a business undertaking.

Has anyone's business the right to cancel out its responsibilities to other statutes merely by it taking out membership in a particular organization?

THE CHAIRMAN: Do you think an owner-operator of one truck could be guilty of some illegal practice under the Combines Investigation Act?

MR. MURRAY: Yes. A group of single truck operators, yes.

MR. JACKSON: Just to clarify one point there on page 11 with respect to "car dealer". Do you mean what I mean when I speak of a car dealer?

MR. MURRAY: An automobile dealer.

MR. JACKSON: Who sells cars?

MR. MURRAY: Not the salesman.

THE CHAIRMAN: The fellow who has a franchise?

MR. MURRAY: The franchised Pontiac dealer on Mount Pleasant Road or somewhere else. He sends an employee to the releasing company. He may be a car jockey or a mechanic.

MR. JACKSON: They make the employee join, not the dealer himself?

MR. MURRAY: Not for the most part. It is only where you can get your hands on him, and that happens at the yard, you see.

MR. JACKSON: Then they get the employee of the car dealer.

THE CHAIRMAN: I went down and got my own car at Windsor once and they didn't make me join.

MR. MURRAY: I guess you already belonged to an organization, Mr. Chairman.

MR. MacDONALD: One of the best closed shops in the world.

THE CHAIRMAN: I saved $45 by doing it.

MR. WREN: I am interested in your view on this. Why are you so certain that individual owner-operators would not join a union if they wanted to join?

MR. MURRAY: In the local cartage field, that is in the dump truck field, we have not taken into membership individual operators but we have about 12 members who are employers who operate a fleet for hire in that field ---

MR. WREN: You don't worry about the individual owner?

MR. MURRAY: No. We are concerned with the competitive elements that may result.

MR. WREN: I know what I would worry about. The individual truck owner could starve to death.

MR. MURRAY: We are not suggesting that there are some corrections or some work by an organization -- and I don't know what organization is prepared to take it on

right now -- but that some organization shouldn't help the owner-operator; in other words, that they should not conduct themselves on an association basis. But to embark on policies or procedures that a trade union is permitted to embark upon is possibly -- we say possibly -- not in the best interest of the public.

MR. WREN: What if I want to buy a truck and join the union? What is wrong with that?

MR. MURRAY: That's fine.

MR. TEAKLE: Would you want to?

MR. WREN: Yes.

THE CHAIRMAN: Supposing you are put in the position where you are drawing gravel for a man who wants to pay you other than what he should pay you and you can get it by joining a union?

MR. TEAKLE: Should a union bargain prices?

THE CHAIRMAN: Don't members of the Automotive Transport Association agree to draw a load for a lesser price in one instance than another member of the Association will do it for?

MR. MURRAY: I'm sorry, Mr. Chairman, I didn't hear the question.

THE CHAIRMAN: I have in mind men who have PCV licences who are hauling cattle, an extra provincial licence. One will haul it for so much. The other fellow comes in and says "Let me haul your load and I will haul it for so much less" -- and both are members of the Automotive Transport Association. Do you concur in that?

MR. MURRAY: Well, I will put it this way, Mr. Chairman. It is a competitive industry and we are not suggesting that that process cannot be in the best interests of the public. In some instances of course, if it is carried to the extreme where you have a completely uncontrolled situation, it can be detrimental. There is no responsibility, no underwriting arrangements, etc. But, quite honestly, we do not get involved in rates.

MR. WREN: How do you suggest your business is competitive? I know up where I live in the north country if I want to have a cargo of goods hauled by truck, they throw a rate book at me and that's the price.

MR. MURRAY: That has been done through a joint organization known as the Dominion Transport Tariff Bureau, of which shippers, receivers ---

MR. WREN: A regular combine.

MR. MURRAY: No, that is not so. I think counsel -- and you have ample on the Committee -- would not include that as a combine. A combine is where there is a concerted effort to put an individual or a non-conformer out of business. There is no evidence that this is any combine at all. This is purely a voluntary organization made up of three people -- transporters and the users of their services; that is, shippers and consignees.

MR. MacDONALD: This is just a means whereby the public and everybody concerned avoid becoming victims of unrestricted free enterprise.

THE CHAIRMAN: I didn't get that.

MR. MURRAY: No comment.

THE CHAIRMAN: Page ---

MR. MacDONALD: You got it, Mr. Chairman.

THE CHAIRMAN: Page 12? Page 13: "Result of Inconsistent Legislation"? Page 14: "Effects of Inadequate Legislation"?

MR. MacDONALD: I just want to make a comment here. I don't know whether we want to pursue it any further. You see, in your paragraph 48 you raise what is one of the basic propositions pro and con that has been brought before this Committee many times. That is, since everybody agrees that collective bargaining is a desirable thing or is a good thing, the Canadian Manufacturers' Association has accepted it in principle and everybody else seems to be in accord, what is the point of putting it in an Act without taking the further step of encouraging its development, of encouraging its development so you have collective bargaining on as wide as possible a basis? The present Act certainly doesn't do that. There have been some arguments that we should have a preamble to it in order to clarify that that is the function of the Act.

MR. MURRAY: In answer to that, Mr. Chairman, I would refer to the age-old argument that regardless of whether this organization or the C.M.A. or any other organization on either side of the collective bargaining table feels that it is to be encouraged, it should not be encouraged

at the expense of destroying certain basic civil rights.

MR. MacDONALD: I wouldn't object to that. Of course it may encourage the possibility of restricting unions organizing in new fields, which is implicit in some briefs and conceivably yours, where there is a vast area not yet organized. And perhaps the very people who need it most are involved, the unorganized.

MR. MURRAY: We would like it to remain their decision.

MR. MacDONALD: But what is the function of legislation? Having said that collective bargaining is good, should it go to some degree to remove every conceivable obstacle to achieving the good?

MR. TEAKLE: No, not at the expense of liberties.

MR. MacDONALD: Well, I agree. I won't object to saying that, at the expense of destroying liberties, but, on the other hand, until you carry it one step further to make it possible for wider organization and collective bargaining, liberties are now being destroyed; with low income rates, people are being exploited. We had briefs yesterday pointing up that fact.

MR. MURRAY: We know you have heard all these arguments before and they must be getting rather tiresome, Mr. Chairman.

THE CHAIRMAN: A little.

MR. MURRAY: But nonetheless our experience -- the only emphasis we want to make here is that our experience has been that it has been very much abused. It is not

inconceivable that management and labour should get together to create a condition that will be to their own best interests.

Now, there have been absuses, and abuses to the extent that they are certainly affecting, we think, many individuals and creating an imbalance or assisting to create it. It is only one of the elements creating this absence of balance that we think should exist.

THE CHAIRMAN: Page 14 "Effects of Inadequate Legislation"? Page 15? Page 16? Page 17? Page 18?

MR. WREN: On page 18, you are another group who decry the lack of enforcement of certain provisions of the Act perhaps by the Attorney-General's Department. Have you ever had instances where you have brought flagrant abuses and violations of the Act or of the Criminal Code in relation to labour relations to the attention of the Attorney-General and he has neglected to act?

MR. MURRAY: Could I say this in answer to that? We had, as you are probably aware, a rather difficult strike in 1953. A settlement was finally reached in the offices of the Minister of Labour. I said "in the offices of the Minister of Labour". However, at that time we said much the same thing as we are saying today to this Committee, that this industry finds itself continually the subject -- the instrument, if you will -- of the boycott and the strike, the wildcat strike for the purposes of administration in our own contract and for other reasons beyond the scope of our contract altogether, beyond the employment of our personnel.

And Mr. Hoffa at that time gave us to believe -- and we are not at all sure that he didn't mean it -- that there wouldn't be any more of these sort of things, that he would see to it.

Of course we all know that you will never eliminate the wildcat strike. There are situations that will develop that you just -- I don't think any legislation will correct it. But, as I say, he gave us this understanding and the Minister of Labour was rather pleased with him giving us that undertaking. And for eight months or nine months afterwards we continued to have some strikes and some rather serious ones. I'm sorry, actually it was for a longer period than that. It would be for about twelve months rather than nine.

On one occasion I contacted the Minister's office by telephone saying I would confirm this by wire and would he do all that he found was necessary to correct the situation or to bring this wildcat to an end or this refusal to walk across picket lines business to a stop. We wired Mr. Hoffa and we wired the Minister and we thought it would at least be good to have these things on record, namely here was a commitment given at the conclusion of negotiations that there would be no more of this thing, and yet they continued, and I might say it involved subsequent arbitration cases where it was the unanimous decision of the board to maintain the company's position on the thing. So it wasn't a situation that should have caused a strike. It wasn't some manager or supervisor conducting

himself with indiscretion. In each case it was just strictly a strike that had if not the encouragement certainly it was condoned by the trade union and by its officers, and its officers did very little, if anything, in several cases to correct it.

MR. WREN: What did the Attorney-General do when you appealed to him?

MR. MURRAY: Nothing.

THE CHAIRMAN: Did you appeal to him?

MR. MURRAY: We appealed to the office of the Minister.

MR. WREN: You go on in a separate paragraph and relate that except for the Provincial Police the municipal law enforcement officers seem to ignore these things.

MR. MURRAY: That has been our experience.

MR. WREN: I have two questions arising out of that. What did the Provincial Police do? And, secondly, did you appeal to the Attorney-General to insist that the municipal authorities act?

MR. MURRAY: We did at the time of the strike and it resulted in, we think - this was at the time of the '53 strike, the area strike -- and we do believe that that appeal to the Attorney-General did result in more active or more aggressive enforcement of the law on the part of the Ontario Provincial Police. However, I believe we couldn't say the same thing occurred with respect to the

police departments in the various municipalities.

MR. WREN: When you say enforcement of the law -- and there have been cases cited of trucks being overturned and cargoes burned -- were there any prosecutions?

MR. MURRAY: No.

MR. WREN: Why not?

MR. MURRAY: Due to lack of evidence.

MR. WREN: And the police were on patrol and saw these things happen?

MR. MURRAY: Well, I will put it this way, these things did happen and it wasn't the pixies.

THE CHAIRMAN: You don't know whether the police saw them happen or not?

MR. MURRAY: I wouldn't say that at all. I don't know whether the police -- you are correct, Mr. Chairman, I don't know whether the police saw it or not.

MR. WREN: Did you attempt to do any prosecuting?

MR. MURRAY: No.

THE CHAIRMAN: There is hardly any point in instituting a prosecution if you cannot prove who did it.

MR. MURRAY: That's right.

MR. TEAKLE: At that time we were dealing with the Minister of Labour and the Attorney-General almost daily. They knew about the particular instances as they came up; there's no question about that.

THE CHAIRMAN: You also told them that you

couldn't prove it?

MR. TEAKLE: That's right. How can you in a strike?

THE CHAIRMAN: How can you get a conviction if you cannot prove it?

MR. TEAKLE: I don't know.

THE CHAIRMAN: So what more can the Attorney-General do? He is not God Almighty.

MR. MURRAY: I might say, Mr. Chairman, the only criticism, again referring to the '53 strike, is that there were very definitely crowds gathering with the intent of stopping traffic on the highways. It must be remembered, as we have outlined here, that there was no need for that. All the member companies of the Bureau who were involved in the conciliation proceedings and had failed to get a contract realized we were out on strike. The union gave us notice. It was all done in an orderly manner insofar as our companies were concerned. They ceased operations in and out of all terminals and indeed in communities in which those terminals were located; in other words, they didn't try to run in from another point with cargo. They ceased operations in and out of communities where they had terminals which were involved in these proceedings, in this strike.

MR. WREN: My point ---

MR. MURRAY: Then immediately following that there was a process of mobs patrolling the highways in an effort to frustrate the movement of those trucks which were not on strike. Some of them, by the way, had contracts with the

Teamsters Union. Others did not. Others were non-union companies. Those who had contracts, contracts that for example would be expiring six months later, they were individual contracts, there was an attempt to stop all vehicles who were in the for-hire business in that area.

MR. WREN: My point here is what point is there in asking us to put more teeth in the legislation, as it were, if you are not able to obtain sufficient evidence to prosecute in instances which you know of which have taken place already?

MR. MURRAY: I would prefer, Mr. Chairman, to avoid prosecution by taking a new look at the law enforcement. It did seem to us that there were certainly some municipalities who sort of took the approach "Well, Gentlemen, there is a strike on now and another law exists at this time."

THE CHAIRMAN: You know the big holler that occurs when Provincial Police go into a municipality without being invited?

MR. MURRAY: We have heard it, sir. We know it well.

MR. REAUME: Of course in that strike in 1953 there were abuses on both sides of the fence, you know. There were people operating trucks who were at that time operating as scabs carrying around guns and were instructed by a certain officer of the Crown that, in the event they had to use those guns to go on ahead and do so. Now, I

don't know what happened, whether your group was for the idea of guns or opposed to it.

MR. MURRAY: Very definitely opposed.

MR. REAUME: It wasn't the members of the union who were carrying guns; it was people who were not members.

MR. MURRAY: Was there any evidence of that, Mr. Reaume? Did the Crown investigate with a view to prosecution?

MR. REAUME: There was no prosecution at all. The Crown made a public statement that in the event that they were stopped on the road, on the highway, to go ahead and carry their guns and, if they had to, to use them. That was all in the papers of the Province and it occurred in that strike in '53.

MR. TEAKLE: There seemed to be no other protection at that time for non-unionized operators.

MR. REAUME: So he carries a gun?

MR. TEAKLE: Not with our consent or with our agreement in any way, shape or form. They were not members of ours.

MR. REAUME: I don't say they were.

MR. MURRAY: We would hope that that sort of conduct would be completely unnecessary, again by a new approach by the enforcement agencies, not individually.

THE CHAIRMAN: Page 19, Gentlemen? Page 20? Page 21?

MR. JACKSON: These are other forms of boycott, aren't they?

MR. MURRAY: Yes, Mr. Jackson.

THE CHAIRMAN: Page 22? Page 23? Page 24? Page 25?

MR. JACKSON: You are saying on page 24, are you, that you don't agree with what Mr. Dodds said this morning in answer to my questions? Is that correct?

MR. TEAKLE: That, Mr. Chairman, was made ahead of time, so you can draw your own conclusion there. We certainly don't.

MR. JACKSON: Referring specifically to paragraph 86?

MR. TEAKLE: That's right.

MR. JACKSON: That is directly contrary to what Mr. Dodds said.

MR. TEAKLE: As Mr. Murray said, this is not a case of rebuttal.

THE CHAIRMAN: Yes, that was filed before Mr. Dodds said it.

MR. MURRAY: I think it is self-evident, Mr. Chairman.

MR. MacDONALD: I think the only comment that should be made with regard to the section starting on page 25 and going on to page 26 is that this kind of proposition has been considered, I think, in every country of the western world at some time or another and in any instance where it has been implemented very shortly afterwards it was repealed and found not to solve the situation at all.

MR. JACKSON: Namely what?

MR. MacDONALD: This general proposition.

MR. JACKSON: Licensing?

MR. MacDONALD: No, the status of unions; the idea that unions should in some fashion or other be not acknowledged as a voluntary organization.

MR. MURRAY: That is not so, Mr. MacDonald.

MR. MacDONALD: I'm sorry?

MR. MURRAY: It has not been repealed. It may have been watered down but it hasn't been repealed.

MR. MacDONALD: I am thinking, for example, if you go back thirty or forty years in Britain. For a time it was done and then they repealed it immediately afterwards.

MR. MURRAY: Mr. Chairman, I don't think we can draught legislation in the light of the economic conditions in Great Britain at the turn of the century. It has to be draughted in terms of 1958.

MR. MacDONALD: You miss my point, Mr. Murray. My proposition is that this point has been, I would say, considered in every decade in every country down through the years and now we are having it proposed to us pretty considerably by representatives of management before this Committee.

MR. JACKSON: Maybe it is time to consider it again.

MR. MacDONALD: All I am saying is that after having considered it in all these countries repeatedly down

through the years, they have for the moment, for their own good reasons, come to the conclusion that it didn't solve the problem.

MR. MURRAY: Could I correct that, Mr. Chairman? I recall attending several earlier hearings. This is not to give rebuttal to other evidence. May I state that the union has a civil status in the United States and it can be sued. It can be brought to court and be made to pay damages for violations of a contract that have brought about damages, wherein the complainant or the plaintiff has experienced damages. I think the same situation exists and perhaps there is a much more refreshing and new approach in some of the Scandinavian countries. But it exists in the United States.

I believe we have made the comment on page 26 that that status, that civil status, alone is not enough because that, too, will be destroyed if there are no laws to prohibit its destruction by contractual arrangements between the parties.

But it still exists today in the United States, Mr. MacDonald.

MR. MacDONALD: Well, to a minor degree. Whether it is as broad as you are talking about here, I rather don't think is the case.

MR. MURRAY: Oh, I think there have been some considerable amounts of damages awarded in certain instances, Mr. MacDonald.

THE CHAIRMAN: Page 26: "Licensing of Trade

Unions"?

MR. MURRAY: Excuse me, may I make one other point, Mr. Chairman, in that last regard? In most cases, though, the next year the contract was changed.

THE CHAIRMAN: "Licensing of Trade Unions"? Page 27? Page 28 "Labour Relations Act"? Page 29 - "Enforcement"? Page 30? Page 31 - "Summary and Conclusion"?

Any further questions, Gentlemen? We have the benefit of these exhibits that are filed. I don't think it is necessary to go into them unless there is any particular matter that any member of the Committee wants to put to this delegation. If not, on behalf of the members of the Committee and its Chairman, Gentlemen, may I express to you our very sincere thanks and appreciation for this very able presentation. And you can be assured that this submission together with the others that have gone before it will receive the very careful consideration of this Committee in its deliberations.

Thank you, Gentlemen.

MR. TEAKLE: Thank you very much from our group, sir, for listening to us and for having provided this opportunity. I am almost concerned about the lack of questioning. I hope it is because everybody has been over it before.

THE CHAIRMAN: We have heard many of these submissions before.

MR. TEAKLE: We are hopeful, sir. Thank you very much.

MR. MURRAY: Could we have copies, Mr. Chairman, of this morning's submissions? That is the memoranda.

THE CHAIRMAN: I think so.

THE ONTARIO FEDERATION OF PRINTING TRADES UNIONS

THE CHAIRMAN: The Ontario Federation of Printing Trades Unions. Would you kindly introduce yourselves, Gentlemen?

MR. CHAS. A. ROSE: Charlie Rose, Local 28, Bookbinders.

MR. BERT GROVES: Bert Groves, president of the Ontario Federation of Printing Trades Unions.

MR. ALLAN J. HERITAGE: Al Heritage, secretary, Ontario Federation of Printing Trades Unions.

THE CHAIRMAN: Would you be good enough to read the presentation to us?

MR. GROVES: I hope you appreciate that the brief is very brief, after listening to all that you have listened to. I want to state one thing before reading the brief, that we are dealing with the legislation and we do want to say that any criticism we have of the legislation is not an implied criticism of those responsible for its administration. We think those responsible for its administration have done a good job. We have been very appreciative of their help whenever we have had to call on them.

---(Reads brief.)

The Act was changed last year, or, I'm sorry, I believe it was the year before last rather to in the case of a bargaining unit of 15 or less where only one employee would be required to be on the bargaining committee.

THE CHAIRMAN: Thank you very much, Mr. Groves.

Gentlemen, any questions arising out of page 1? We have heard most of these submissions in previous briefs, you understand.

MR. MacDONALD: Mr. Chairman, may I ask Mr. Groves this? The argument that is advanced against the case you make for the majority of votes cast is that there might be very few people bothering to vote and therefore you would have a very small minority. What is your reaction to the proposition that has been put to us sometimes that it be the majority of the votes cast on condition that it has been the majority of the eligible voters?

MR. GROVES: I would be opposed. If people are indifferent or apathetic they have to accept the rule of the majority.

THE CHAIRMAN: Suppose, Mr. Groves, only fifteen out of a hundred employees voted, would you still say that was fair?

MR. GROVES: Possibly you have a point there but I have never heard of such a case.

THE CHAIRMAN: Do you find any fault in the proposition put to you by Mr. MacDonald if we were to amend the Act to require not a majority of the eligible votes but

a majority of the votes cast providing the number of votes cast is equivalent to 50% or more of those eligible to vote?

MR. GROVES: Personally that would seem to be reasonable because if there aren't any more than 50% interested, the union is wrong in attempting to get bargaining rights. That is my own personal opinion.

THE CHAIRMAN: Anything else on this page? Page 2?

MR. MacDONALD: On page 2, Mr. Chairman, has it been your experience, because I think the reason for the Chairman's chuckle of interruption -- or his interruptive chuckle -- was that the overall statistics provided by the Department indicate there has been greater success at the conciliation officer's stage than you indicate here -- has it been your experience in your union that there has been limited success?

MR. GROVES: If I might say this, we have found that the conciliation officer's stage has been accepted by most companies as just a formality to go through. I refer there to the experience of all the unions in Toronto. In outside areas it has been most successful. Again I want to repeat what I said in the first place, that the conciliation officers have been most helpful in smaller areas. But in the matter of the number of people involved in industrial disputes as far as the printing trades are concerned, I would say the statement we have made here is

generally true.

THE CHAIRMAN: In the City of Toronto?

MR. GROVES: Well, where there are a number of people involved throughout the Province of Ontario.

THE CHAIRMAN: Toronto is rather different from the rest of Ontario.

MR. GROVES: Yes, it is, because this is one of the biggest printing centres in North America. I am referring to it as a printing centre rather than the city in which I enjoy living.

THE CHAIRMAN: Anything else on page 2? Anything on page 3?

MR. MacDONALD: What is your reaction to an alternative proposition to a number of points you have made on pages 3 and 4, that there be a fixed period for negotiations, at the end of which there might be economic action, say of ninety days, and that any kind of approach might be taken, conciliation officer, conciliation board and so on? You know at the end of 90 days you are free instead of all the various portions of the Act which are limited but build up until sometimes it is not 90 days but 6 months or 8 months.

MR. GROVES: I would think we would be agreeable not to 90 days but to 30 days.

MR. MacDONALD: Well, the problem there ---

THE CHAIRMAN: You would consent to 90 days though, I take it?

MR. GROVES: We are suggesting we start

negotiations 90 days prior to the expiry of the agreement, which would give us 120 days.

THE CHAIRMAN: We are thinking in terms of a difficulty that crops up where all the procedure has been gone through and, as Mr. MacDonald states, there might be a period of 6, 8 or 9 months elapse, but if there were a definite period of 90 days set down wherein it was said from the beginning of this procedure until 90 days has elapsed and if at the end of 90 days no agreement has been reached or a settlement arrived at, then the economic action of a strike in the instance of a union or of a lockout in the instance of the employee can be invoked.

MR. GROVES: Well, again, I would say that 90 days is still too long. I rely on both my confreres here and they would agree with me. We have to live with these people while this sort of thing goes on and 30 days is plenty long enough to live with this sort of dragged-out thing if we have to. We have been very fortunate that none of our disputes, to our knowledge, have lasted anything like eight or nine months because we sit on the back of the Labour Department and we have been able to get good service because we pester the hell out of them.

THE CHAIRMAN: I think in all cases where this representation has been made to us up to the present time, Mr. Groves, by each organization that has made reference to it, the period of 90 days has been suggested. Yours is the first to suggest one-third of that time.

MR. GROVES: Well, the printing trades have

always been non-conformists.

THE CHAIRMAN: That may be the trouble.

MR. GROVES: It could be a good point in our favour too.

THE CHAIRMAN: Page 4?

MR. MacDONALD: I think this proposition has an element of fairness in it and it becomes valid in the printing trades. If you have a unit as in the case of the printing trades of three or four people, to have to single one of those out, they may be discriminated against in one way or another and it has had some pretty sad consequences. Since management has complete freedom in the course of that, it seems to me that what is sauce for the goose is sauce for the gander.

MR. GROVES: I can give you an example actually. It happened to us in 1952 or 1953, I just forget the exact year, where we actually lost bargaining rights in about five companies. I don't think any one of them had any more than six or seven employees. They were partially organized. We had members in all of them. We didn't have them completely organized and we were unable to get -- at that time we required two or more of the employees there and Mr. Adams demanded that we have representatives of the employees on the bargaining committee.

MR. HERITAGE: To give you an illustration of that, too, I have run into that in organizing in the mailers and we have had cases where the employees demanded to have

a representative from their shop where there have been only three or four members in the shop and when we take the member up he is scared to say what the conditions are because of discrimination down in the shop.

MR. MacDONALD: Well, the irony of it is pointed up when Mr. Adams was making this point when he wasn't an employer at all but a counsel.

THE CHAIRMAN: Anything further, Gentlemen?

Thank you very much, Mr. Groves.

MR. GROVES: Thank you very much.

THE CHAIRMAN: May I as Chairman assure you that this presentation will receive very serious consideration. Thank you, Gentlemen.

We will adjourn now until ten o'clock on Tuesday next.

---Whereupon the Committee adjourned until 10 a.m. on January 28, 1958.
